

Values and
Ethics
for the 21st Century

BBVA

TABLE OF CONTENTS

- 7 ETHICS IN BUSINESS AND FINANCE: THE GREAT POST-CRISIS CHALLENGE
Francisco González, BBVA

I. ETHICS IN A GLOBAL WORLD

- 35 THE GLOBAL ECONOMIC CRISIS REQUIRES A GLOBAL ETHIC
Hans Küng, Global Ethics Foundation
- 59 ETHICS AND GLOBAL GOVERNANCE
Mervyn Frost, King's College, London
- 77 SECULARISM AND MULTICULTURALISM
Charles Taylor, Northwestern University, Chicago
- 103 IMMIGRATION AND CITIZENSHIP
Joseph H. Carens, University of Toronto

II. ETHICS IN SCIENCE AND TECHNOLOGY

- 141 TECHNOLOGY AND THE BURDEN OF RESPONSIBILITY
Carl Mitcham, Colorado School of Mines
- 167 ETHICAL ISSUES RAISED BY HUMAN ENHANCEMENT
Andy Miah, University of the West of Scotland
- 199 ETHICS AND EMBRYOLOGY
Mary Warnock, British Academy
- 217 ETHICS AND THE INTERNET
Robert A. Schultz, Woodbury University – University of Oregon

III. ETHICS IN DEVELOPMENT, POVERTY AND ENVIRONMENT

- 257 ETHICS AND POVERTY
Peter Singer, Princeton University
- 277 RE-EXAMINING THE RELATIONSHIP BETWEEN ETHICS AND THE ECONOMY
Bernardo Kliksberg, PNUD/ONU

309 ECOLOGY AND ENVIRONMENTAL ETHICS
Kristin Shrader-Frechette, University of Notre Dame

IV. ETHICS IN BUSINESS

337 A HISTORY OF BUSINESS ETHICS
Richard T. De George, University of Kansas

363 STAKEHOLDER MANAGEMENT AND REPUTATION
R. Edward Freeman, Virginia University

385 NATIONAL CULTURES, ORGANIZATIONAL CULTURES, AND THE ROLE OF MANAGEMENT
Geert Hofstede, Maastricht University

405 ETHICS, VALUES AND CORPORATE GOVERNANCE
Thomas Clarke, University of Technology, Sydney

441 GENDER, LEADERSHIP AND ORGANIZATION
Mollie Painter-Morland, De Paul University, Chicago

V. ETHICS IN FINANCE

473 THE ETHICS OF RISK MANAGEMENT: A POST-CRISIS PERSPECTIVE
John R. Boatright, Loyola University, Chicago

499 THE WORTH OF RISK-TAKING AND RISK-AVOIDANCE
Peter Koslowski, VU University Amsterdam

523 ETHICS IN MICROFINANCE
Reinhard H. Schmidt, Goethe University, Frankfurt

561 BIOGRAPHIES

ETHICS IN BUSINESS AND FINANCE: THE GREAT POST-CRISIS CHALLENGE

Francisco González

This book, *Values and Ethics for the 21st Century*, is the fourth in the series published annually by the BBVA, aimed at disseminating knowledge at its best. And, as in previous years, I feel extremely gratified, as well as proud, of the calibre of the authors who have collaborated with us and of the quality of their contributions. I should like, before anything else, to warmly thank all the authors of this year's book.

Each year we have had the privilege of being able to count on world-class researchers and authors, who have presented rigorously and objectively, but in language and with a focus understandable to non-specialists, the advances in knowledge and the state of scientific debate on the key issues of our age.

The first of these books, *The Frontiers of Knowledge*, coincided with the launching of the prizes of that name, awarded by the BBVA Foundation. It seemed timely to us at that juncture to address the recent developments and the fundamental challenges of research in the eight areas in which prizes are awarded: biomedicine; ecology and conservation biology; climate change; information and communications technologies; the economy, finance and business management; development co-operation and contemporary arts.

The main theme of the second book was globalization; through it we sought to present a view of the many facets of this complex and controversial phenomenon which is influencing every dimension (economic, political, social, cultural, religious), as well as the lifestyle, of the people of the 21st century in the entire world.

The third book was about innovation, as the chief factor capable of promoting economic growth and improvement in people's standards of living in the long term, by applying the almost infinite possibilities of the scientific and technological revolution to meeting the major challenges facing the human species: inequality, poverty, education, health, climate change and environmental degradation.

In parallel with these initiatives, and encouraged by the success of this series of books, this year we have embarked upon a new and exciting project: OpenMind (<http://www.bbvaopenmind.com>), a website aimed at disseminating and sharing knowledge. The purpose of Openmind is to provide a community base for sharing and discussing knowledge, ideas and opinions on the most vital issues of our times.

OpenMind incorporates all the books we have published until now and will also contain those to be published in future; they can be read, downloaded, commented upon and evaluated by a much wider public than that which may have access to books. But, above all, it is a space for authors, together with other specialists and any interested reader, to interact in an open and multi-disciplinary framework, in which general topics can be addressed from different points of view—a framework, in short, suitable for debate and the generation of new ideas and new ways of spreading knowledge. We hope that OpenMind will become a valuable instrument to help us, together with our publishing projects, to fulfill our vision: “BBVA, working for a better future for people.”

For this fourth book we have chosen ethics and values as the main topic. That is because we need shared values and ethics, they are vital for the proper functioning of the economic, political and social network and, therefore, for the well-being and development of the potential of every world citizen. It has always been like that in every society, but today it is more than ever necessary that ethical values be reviewed and reaffirmed.

The world we live in is changing at an accelerated pace, driven by technological development and globalization. The speed, depth and scale of the changes to which today's people are subject continually cast doubt on many things that we believed or knew until now (or believed that we knew).

We need shared values and ethics, they are vital for the proper functioning of the economic, political and social network and, therefore, for the well-being and development of the potential of every world citizen

This process generates uncertainty, imbalances and conflicts both socially (by confronting sectors which adopt different attitudes and views regarding change) and personally. And this worry has been exacerbated by the economic and financial crisis which, among other global problems, has revealed ethical deficiencies in the actions of many institutions, and has again placed values at the forefront of people's demands, as a guide for dealing with uncertainty and as a factor of stability in facing up to the crises and conflicts.

Our intention with regard to this book is to discuss how we can understand and avail ourselves of universal ethical principles in order to

meet the great challenges that the 21st century has placed before us. It is, of course, a very complex and demanding task, and it is quite possible that the reader can get lost among the intricacies of abstract and specialized discourse.

But, one of the book's basic contributions lies precisely in how this problem is tackled. The authors have made a great effort, without diminishing the rigor, to offer clear views of the major ethical challenges in their respective areas, and even tangible and comprehensible proposals for dealing with some of the immense ethical issues of our time. Of course, their views and their solutions can legitimately be debated. However, it is not a matter here of settling questions with definitive and dogmatic replies. Rather, on the contrary, it is one of putting forth points of view, arguments and proposals that stimulate individual thinking and collective debate.

The book is divided into five parts: ethics in a global world; ethics in science and technology; ethics, development, poverty and the environment; ethics in business; and, finally, ethics in finance. None of these areas is more important than the others. In fact, and this is probably not surprising, there are many interconnections between them.

We decided that the book should start with a survey of some of the major "global" ethical questions of our time, because globalization in all its many forms (economic, social, political and cultural...) is undoubtedly contributing in a decisive manner to shaping the world in which we live today.

Globalization confronts us with a multiplicity of new phenomena, for the management of which we shall have to provide an ethical response. Formulating a coherent response is particularly difficult because, although the world is increasingly global, it is certainly not more uniform.

People and social and national groups are faced with this phenomenon from the perspective of mental schemas and views of the world that are very different, forming part of very different cultures.

Nevertheless, the answers to these questions raised by globalization will be fundamental for global stability and prosperity in the future.

Hans Küng starts this section with a global ethical scheme for the guidance of economic activity in the form of a “Manifesto for a Global Economic Ethic.” It is not a conceptual document or a vague declaration of good intentions, but rather a collection of tenets based on moral values shared by all cultures and sanctioned by practice over the course of the centuries. It constitutes a valuable document for essential reflection by all readers on the principles that would enable globalization to lead to sustained and sustainable growth and improvement of the well-being of the people of the world.

In any event, the drawing up and effective application of commonly-accepted ethical criteria to manage this global world require an improvement in global governance and the institutions that administer it. Mervyn Frost, in his article “Ethics and Global Governance,” proposes a scheme for evaluating the more-or-less ethical nature of these mechanisms and institutions, based on reciprocal acknowledgement of the norms, duties, rights and freedoms of the participants in all areas of global governance.

Globalization broadens and makes much more frequent the contacts between people with very different views of the world. A large number of these differences is associated with religious beliefs and practices. This is the issue addressed by Charles Taylor in his article; in it he proposes channels for managing social multiculturalism that favors the integration (not the assimilation) of different cultural groups through the

establishment of “secularizing” policies and attitudes. By “secularization” he means not the “control” of religion, but rather the handling of the diversity of religious or philosophical convictions (and also non-religious or anti-religious convictions) fairly and democratically.

One of the most notable features of globalization is the enormous increase in migratory flows. The International Organization for Migration estimates that there are 200 million emigrants and/or immigrants in the world, mainly people from the developing countries seeking a better future in the richer countries. Joseph Carens examines different ethical matters linked to immigration in his article. These are access to citizenship, problems of inclusion/exclusion, admission criteria, irregular immigrants, refugees, family reunification, etc. to which he gives answers reflecting a commitment to democratic values.

Scientific and technological progress is probably the phenomenon that is most decisively shaping our age. We all perceive how the limits of what is possible are being extended in science, industry and people’s lives to a degree that only a short while ago was unthinkable. But together with the enormous opportunities of this scientific and technological revolution that we are experiencing, a large number of new and difficult ethical questions is emerging. And in this situation the attitude expressed in Elvin Stakman’s famous maxim: “Science cannot wait until ethics catches up with it, and nobody should expect scientists to think of everything for everybody.” is not valid. We need a more constructive approach, along the lines of that of Heinz Pagels: “Science cannot resolve moral conflicts but it can help to better formulate the debates on conflicts.”

The second part of our book provides an overall view of these problems. It starts with the article by Carl Mitcham which sets out the role of “responsibility” (a notion rarely mentioned in ethical discourse) in the exercise of scientific research, as well as in the development of its

multiple applications. The growing capacity of science and technology to affect people's lives (for better or for worse) must go hand in hand with responsibility, which is also growing.

The following chapters discuss these ethical issues applied to the most characteristic scientific and technological developments of our time. Andy Miah analyses human improvement. Matters such as scientific and technological applications for changing specific "natural" physical characteristics, as opposed to those employed strictly for health needs or the entering of humankind into a "transhuman" era in which biology can be manipulated at will, provoke very thorny ethical questions that are far from being resolved. For that, it would first of all be necessary to lay down some general principles as a guide for conduct related to human enhancement and these principles would have to be subscribed to on a global scale.

For her part, based on her experience in the first case of in vitro human fertilization, Mary Warnock addresses the ethical issues raised by embryology, which are the object of lively debate on matters as crucial as cloning, research on stem cells and assisted reproduction.

Internet is surely the most omnipresent and characteristic technology of our time. Its genuinely global, open nature, free of regulations, controls and transnational powers gives special complexity to the ethical problems that it poses. Robert Schultz proposes the principles necessary for addressing these problems, both for the individual and in the social and global spheres.

The third section of the book is devoted to the ethical issues related to some of the greatest problems that must be confronted by humanity as a whole: economic development, poverty and environmental degradation. Moreover, these are problems on which the impact of technology and globalization are highly controversial.

Technological progress and globalization are fostering global growth at rates that were probably never previously known in history. But, at the same time, it is seen how this growth involves growing pressure on the global ecosystem, which can be seen in phenomena such as climate change, deforestation, the loss of biodiversity and the deterioration of water quality, which endanger the sustainability of the planet. At the same time, the prosperity is shared unequally: whereas some emerging areas are able to maintain persistently high rates of economic growth, others—such as Sub-Saharan Africa—are on the fringes of development, with living standards increasingly far below those of developed regions. Greater inequality in wealth distribution is even taking place within the nations themselves.

Scientific and technological progress undoubtedly improves our ability to deal with all these problems and, together with the opening-up of markets and the enhanced competition and efficiency that accompany globalization, constitutes a tremendous opportunity to sustainably raise the levels of prosperity and well-being of world populations as a whole, while at the same time preserving the environment.

However, this requires a cultural adaptation that is passed on to the institutional and regulatory structures. And this cultural change will only be effective—that is, will only contribute to progress and general well-being—if it is constituted based on firm ethical values that are accepted globally.

Within this framework, the following articles are about the ethical foundations on which we must build solutions for the great problems of our times.

Peter Singer, who in our 2009 book presented a brilliant survey of the ethical problems of globalization (Singer, 2009), in this book focuses on

ethical issues concerning the reduction of extreme poverty. He examines the reasons why developed countries and their people should contribute more for this purpose and argues that the elimination of poverty is a common benefit in which ethical requirements and the interests of the people of the developed countries converge.

For his part, Bernardo Kliksberg sets out the broad outlines of his proposals for an ethical agenda for the economy, which guides the action of governments and companies and promotes voluntary work by the people. He also describes some experiences along these lines in Latin America.

The article by Kristin Shrader-Frechette addresses ethical issues relative to the environment and criticizes some maximalist concepts that are very widespread among its defenders. She proposes three key principles for formulating the environmental ethics of our times, based on “traditional” ethical rules and the making of human rights and public health compatible with the protection of the environment.

The imbalance between the degree of current technological progress (with the possibilities that it offers in the area of the economy) and the cultural and institutional framework in which we move—developed within the framework of a generation of older technologies and industries—is a fundamental factor underlying the present deep economic and financial crisis, as shown by Francisco Louça in his magnificent article in the previous book in this series (Louça, 2010).

This imbalance has been clearly reflected in the regulations and control mechanisms of the economic system, but also in the main principles commonly applied in decision-making in companies. As a result, ethics, values and principles in business have justifiably become a crucial aspect in the broad and lively debate on the crisis.

Richard De George opens the fourth section of this book with a historic review of the concept of ethics in business, arriving at the conclusion that companies' views of ethics are substantially different according to different times and geographical areas, reflecting the particularities of each socio-economic situation. And although in many countries conceptualization has attained a high degree of maturity, the development of global ethics in business is still at an embryonic stage.

Edward Freeman maintains that we need a new approach relative to how companies really function. The concepts of *stakeholders* and *reputation* are fundamental to this new approach, which is starting to emerge as a result of the crisis. The interests of clients, employees, suppliers, financiers and consumers to a large extent merge together. All these interest groups and a firm's reputation are an integral part of the business model; therefore executives must take on their role as reputation managers, responsible for creating the greatest possible value for the stakeholders.

Based on his research on international comparison, Geert Hofstede shows that whereas national cultures differ substantially with regard to values, corporate cultures show their main differences in their practices. Consequently, the companies' cultures can be created and modified more easily. Establishing, adapting and monitoring correct practices throughout an organization in order to ensure unity and proper functioning are part of management's key tasks.

Corporate governance in recent years, and most especially following the crisis, has been the object of renewed attention and the centre of lively debate. Thomas Clarke advocates an approach for corporate governance in which decision-making becomes a moral exercise that must go further than internal control of the company and abidance by the regulations, in order to cover the company's environmental and social impact.

For her part, Mollie Painter-Morland discusses gender issues, leadership and organization. In her article she shows how discriminatory practices are “hidden” in a company’s daily practices; in order to combat them she advocates new models of leadership that enable women as well as men to explore and avail themselves of all their potential.

The crisis can be the point of inflection for setting up a more efficient and productive economic system, which is more stable, more just and more aligned with the legitimate interests of the world as a whole

The finance industry is at the centre of the crisis that we are experiencing: the origin of the crisis is financial, and certain ethically objectionable conduct in some institutions clearly contributed to its unleashing. Therefore, we devote a special section in this book to ethics in finance. In it, particular attention is given to risk management—one of banking’s very specific functions, which has been shown to be determinant in the crisis.

In his article, John Boatright discusses the differential role of risk management in the current crisis, linked to the complexity of the mathematical models and tools that have been developed in recent decades to assess portfolio risk. These tend to reduce the transparency and accountability of decisions taken within the framework of the specific interests of each company and its shareholders, but they can also deeply affect much larger groups of people or even society as a whole. The great ethical challenge of the crisis is how to use risk management in a socially-responsible way.

In the second article on this subject, Peter Koslowski argues that one of the reasons for the failure of risk management is the lack of understanding of the values associated with the taking and avoidance of

risks. Complete deregulation has not worked. But the overcoming of the crisis must not lead to excessive state regulation and control. The ethical commitment of managers, expressed in self-regulation, should play a crucial role in the future of the industry.

Finally, to end this section and the book, Reinhard Schmidt describes the development of microfinance. He concludes that the microfinance institutions, being obliged to maintain their commercial and financial skills, have had to focus on the needs of the lower-middle classes in developing countries (who are poor in comparison with European standards, but not with local standards). This is a function that is socially and economically vital for the development of these countries but, in turn, requires the experts and social entrepreneurs to find new ways to attend to the needs of people in a state of extreme poverty.

COMPANIES FOR A MORE ETHICAL WORLD

There are now more than 70,000 multinational companies in the world, which generate 25% of world production. Over the past two decades, the “foreign” investment of these companies, i.e., that which they make outside their countries of origin, has greatly surpassed all the official development aid. These large companies have enormous weight, penetration and social impact: they create high-quality jobs, generate relevant and reliable demand for local suppliers, provide new or better services and products for their customers and, what is even more important, disseminate new and better technologies, more modern and effective management methods and commercial practices and, in more general terms, the values associated with advanced democratic societies as a whole.

Thus they have become essential instruments for the creating of a global economy and society and can—and must—be very powerful

catalysts of a transformation to a more prosperous, balanced and sustainable world.

The companies are not part of the world's problems. On the contrary, they have to constitute an essential element for their solution. In the 21st century a company has to be responsible; it has to respond to the legitimate demands of its environment and make commitments to the societies in which it is located. And it has two very important motives for doing so, which are conviction and its own interest: conviction because ethics and positive values must constitute the core of its corporate culture; and interest because companies have to deal with an increasingly well-informed and demanding society and therefore need greater legitimacy to engage in their activities in the medium and long term. Furthermore, a more prosperous and stable society is, at the same time, a condition for and a result of the proper running of companies,

Companies have become essential instruments for the creating of a global economy and society and can—and must—be very powerful catalysts of a transformation to a more prosperous, balanced and sustainable world

If that is so for all companies, much more is it so for banks. That is because the financial industry is at the centre of the economy and of society. Its function is to help companies and people to implement their projects, by offering essential payment, savings and investment services, apart from supplying a growing range of other increasingly specialized products and services, mainly linked to the different forms of risk management.

For all these reasons, banks are fundamental to development. And therefore banking should be a basic referent of the trust of employers and

unions, in a dual sense: in that of taking care of the legitimate interests of all the stakeholders, and also in the sense of prudence and professional competence.

Professional competence and ethics are two essential attributes (which in many aspects are related) and which every financial institution, as well as the system as a whole, must zealously safeguard.

It has always been like that, but the crisis has brought about a serious loss of credibility of the entire economic system, and in particular a substantial deterioration in the reputation of the banks.

In a parallel development, the scrutiny of public opinion and media pressure have become stricter, while shareholder activism and that of a multitude of non-governmental organizations and more-or-less formal platforms presenting claims have been stepped up. In the final analysis they demand deep-seated changes in the management and control of political, economic and financial decisions.

There has undoubtedly been mistaken, unwise or plainly fraudulent conduct in many institutions, as well as major errors in the system and very serious deficiencies in regulation and supervision, which have to be corrected. But not all the responsibility, nor even the greater part of the responsibility can be attributed to regulation and supervision. There is no such thing as perfect supervision, and nor is financial regulation that foresees all situations and determines all decisions possible, or desirable. It is not possible because the environment, the institutions and the markets are in a constant state of flux—to a large extent in order to respond to regulation itself. And nor is it desirable because, even if this “total” regulation were achieved, it would be counterproductive: it would severely limit competition, and with it efficiency, creativity and innovation in industry, with the consequent decreased usefulness for users and loss of growth for the economy.

In this way, the current anxiety and dissatisfaction (which are quite justified) involve very relevant risks for the functioning of the system and the future well-being of the population: over-regulation and excessive interference by the public sector in economic and financial activity can lead to a serious deterioration in the efficiency and capacity for generating growth and employment.

We undoubtedly need better regulation, but not more regulation. Moreover, and above all, we need more principles, more ethics in business in general and in the financial industry in particular. That is because ethical principles ensure proper conduct by participants in innumerable situations not covered by law (or not strictly regulated by the institutions in charge of enforcing them). As Earl Warren, for many years Chief Justice of the U.S. Supreme Court, once said, "In civilized life the law floats in a sea of ethics."

The crisis can be the point of inflection for setting up a more efficient and productive economic system, which is at the same time more stable, more just and more aligned with the legitimate interests of the world as a whole. In short, the crisis can become an immense opportunity for everyone. And in order to achieve it, the key is ethics.

For that we must formulate widely-shared principles which address the ethical issues arising from changes in our times. We must also succeed in making many more people aware of the moral challenges facing us all, as consumers, as part of the productive system (as workers or entrepreneurs), as participants in the political system and members of civil society. And we also need many more companies to understand that ethics are not only desirable, but also profitable. Companies must be solvent, efficient and innovative, and at the same time apply solid moral principles in their relations with their stakeholders. They must also assume a commitment to the societies in which they operate, and to the

aspirations and concerns of their people. The large multinational companies—and among them very significantly the banks—can make a very relevant contribution to this task.

BBVA: A PROJECT BASED ON PRINCIPLES

The importance of ethical principles for the stability of institutions and the economic and financial system as a whole was made very clear by the disparity between the effects that the crisis has had on different institutions. Not all banks have been the same, not all have behaved similarly, and consequently not all are having the same results.

**Banks are fundamental to development.
And therefore banking should be a basic referent
of the trust of employers and unions**

Since the summer of 2007, throughout all the successive episodes of a long crisis that is having negative impacts on very different kinds of businesses, markets and geographies, BBVA has been able to remain, quarter after quarter, year after year, on a path of positive results. This contrasts with the extreme volatility in the results of most banks and has made BBVA one of the few large world banks that has not needed any state aid whatsoever, nor has been forced to resort to a capital increase in order to restore its equity to the levels required by the regulations. This is because it has been able at all times to generate the necessary capital internally.

This is the result of a multiplicity of factors: an adequate diversification of our business and of the markets in which we have a presence, and a very efficient model of universal banking oriented towards our clients and

supported by the best technology and a very cautious risk-management culture. And all that is summarized and explained in a single concept: our principles.

For some time now, several years before the crisis, we at BBVA have been determined to set up a project based on firm business ethics, with the conviction (which our manner of proceeding vis-à-vis the crisis is proving to be the right one) that “ethics are not only desirable, but are also profitable.”

We have three basic principles: the first is transparency; the second is integrity; and the third is prudence. They are required of any company but even more of a bank, which has a fiduciary duty to its clients that must above all be reflected in risk management.

These principles constitute the very essence of our business model. In the financial industry the most advanced management models use Risk-Adjusted Profitability (RAP) as the tool for creating value. BBVA's management model is even more demanding because it requires fulfillment accompanied by strict ethical criteria. That is, it also incorporates Profitability Adjusted to Principles. This is because we believe that by acting in this way we contribute value to our interest groups—along the lines described by Professor Freeman in his article in this book.

The cornerstone of BBVA's project is corporate governance. Regarding this issue we place the focus on establishing appropriate incentives and controls so as to achieve a balance between both functions, and avoid conflicts of interest, for the ultimate purpose of ensuring optimum conduct by the bank relative to all its interest groups.

For a decade now BBVA has been working to establish cutting edge corporate governance, stricter than that acceptable under international

standards. Already in 2002 decisive steps were taken in that direction, consolidating two fundamental pillars: the independence of the Board by means of an ample majority of independent Board members supported by a minority of executive members with wide knowledge of the Group; and transparency and rigor, orchestrated through rules, criteria and regulations that involve demanding, public and verifiable commitments.

In successive years we have made new adaptations and improvements to a process that we never consider finished, precisely because we want to keep BBVA at the forefront of the best international practices.

On this basis of excellent corporate governance, we at BBVA avail ourselves of all the instruments that can help to make a company based on principles. Among them, our codes of conduct are prominent. They must be assumed by all and become part of established conduct. The same applies to the international codes of reference to which BBVA is a party, such as the United Nations Global Compact, the Universal Declaration of Human Rights, the International Labour Organization and many others. As a financial institution, we also attach special relevance to the Equator Principles and the U.N. Principles for Responsible Investment.

All these principles, codes and standards are useful, but the key lies in progressing from declarations to action. To achieve this, two fundamental elements are necessary: the first is proper organization, which sets up the system of corporate governance and the systems of enforcement, risk management and corporate responsibility, incorporates ethical principles and standards into BBVA's strategy, and ensures that they become known and adopted by the entire organization. The second is leadership that is publicly committed to our principles and values and actively disseminates them.

Moreover, our principles are summed up in BBVA's vision: "working for a better future for people" and are expressed in definite commitments to all our interest groups:

to our shareholders: to create higher long term sustainable value;

to our clients: to find the best solutions for meeting their needs, on the basis of a relationship of trust in the medium and long term;

to our employees: to develop a management style that generates enthusiasm and promotes training, motivation and personal and professional development;

to our regulators: to act with integrity and transparency, strictly abiding by the law;

to the companies with which we work: to contribute actively to their sustainable development and well-being.

Obviously these commitments must be met, basically by performing our daily activities as well as possible. But at BBVA, we go even further, with the establishment of a Strategic Corporate Responsibility Plan to which the BBVA Group allocates a large amount of assets (in 2010, 76 million euros, equivalent to 1.6% of its attributable profits) and which has three major divisions: financial inclusion, responsible banking, and education and knowledge.

Our financial inclusion programs propose solutions for a serious global problem: currently fewer than 1,000 million people (15% of the world population) are bank clients. And there are at least 2,000 million people who do not have access to these services because the conventional banking model is not efficient enough to make the provision of financial services profitable, to those with levels of income below a certain threshold. However, access to financial services would greatly increase the

opportunities of these people to improve their well-being and quality of life and would improve the prospects of growth and development of the societies in which they live.

At BBVA we aspire to making access to financial services universally available. We want to provide “banking for all.” BBVA is developing an ambitious plan of access to banking services, by developing innovative models that are simpler and more efficient in offering financial services. In this way we have succeeded in incorporating more than five million new clients in Latin America since 2007.

At the same time, we established the BBVA Microfinance Foundation in 2007, with an initial endowment of 200 million euros. It is a non-profit institution aimed at promoting productive microfinance—that is, facilitating access to credit and financial services for people with low incomes who undertake productive projects. The Foundation’s strategy is focused on alliances and the acquisition of shares in microfinance institutions with proven local experience.

In mid-2011, the Microfinance Foundation was already operating through eight branches in six countries: Colombia, Peru, Chile, Panama, Argentina and Puerto Rico. It had about a million clients (63% women, two-thirds of whom with incomes of less than 10 dollars a day), with an average microcredit of 737 euros. And it continues to grow and consolidate as the largest microfinance network in Latin America and one of the largest world-wide.

The model of our Foundation is genuine and innovative: it opens up a third way for the dilemma described by Professor Reinhard Schmidt in his article, between excessively commercialized microfinance institutions, which apply very high interest rates, and other more socially-inclined institutions with lower rates but with management and efficiency problems and difficult access to financing in the capital markets.

The Foundation's contribution of capital and knowledge allows for the establishment of a professionalized and efficient model, with important synergy between the different branches of the network. And thanks to the lack of pressure to obtain short-term results—more than ensuring the model's sustainability—it is possible to apply lower interest rates and reach the areas and groups of most difficult access, thereby creating much more long-term value.

The dissemination and general adoption of shared moral principles by everyone is essential in order to take advantage of the enormous opportunities offered by progress

“Responsible Banking” is a transversal course of action that involves all aspects and all people in the organization. Its aim, above all, is to guarantee compliance with all the rules and regulations to which we are subject, as well as our own codes of conduct and the international commitments which we have undertaken on different matters.

In addition to fulfilling the minimum requirements specified under the regulations, BBVA undertakes projects to improve ethical management vis-à-vis our clients, employees, suppliers, regulators and society at large. These initiatives include projects such as the development of a Plan for Gender Equality, a Global Plan on Corporate Volunteer Work, the Group's Global Responsible Procurement Policy, the Global Eco-Efficiency Policy, a demanding policy for financing projects with a high social or environmental impact and one for financing controversial sectors such as arms and the launching of an ambitious program for the Prevention of Fraud.

Finally, education and knowledge-generation and dissemination programs account for approximately two-thirds of the resources allocated annually

by the BBVA Group to social action. We follow this policy because we understand that these programs are the most powerful levers for promoting economic development and well-being, as well as stability, in all the societies in which we work.

A large part of these resources is assigned to financial education, which is of great value for people and societies because it enhances people's financial position, improves risk management, promotes savings and strengthens the financial system. We are implementing the Global Financial Education Plan at BBVA; it is endowed with 26 million euros for the 2009-2011 triennium and has more than a million beneficiaries.

BBVA is also implementing other important general-education projects in Latin America, such as the program "Niños adelante" (Children Forward), to which 15.4 million euros were allocated in 2010 and with which the social integration of 60,000 boys and girls of marginalized families is achieved every year, mainly through the awarding of scholarships for schooling. Moreover, BBVA has launched, together with the Organization of Ibero-American States (OIS), "Metas Educativas 2021" (Educational Goals 2021)—an ambitious project that will benefit more than 8 million people in the region over the course of the coming decade.

The Knowledge-Promotion policy has a prime mover in the Group—the BBVA Foundation, which focuses its activity on the generation and dissemination of knowledge through support for cutting-edge scientific research and the most innovative artistic creation. The best-known of the Foundation's activities is the BBVA Foundation Frontiers of Knowledge Awards, conferred for the first time in 2008 and which in only four years have taken their place among the prizes of greatest international relevance. But it is also sustained by constant support for numerous research projects, for advanced and specialized training and for the communication and dissemination of knowledge, as well as recognition for

researchers and professionals who contribute significantly to the advancement of knowledge.

Our annual series of books and the OpenMind website were conceived along these lines. This year's title was planned as a contribution to knowledge and debate on a fundamental issue of our times: the role of ethics in the 21st century's global society. We firmly believe that the dissemination and general adoption of shared moral principles by everyone is essential in order to take advantage of the enormous opportunities offered by scientific and technological progress in favor of the well-being and quality of life of people all around the world—those of our generation and of the generations to come. I hope that readers will enjoy it and will benefit from it as much as we have done in the task of publishing it.

BIBLIOGRAPHY

- Louça, F. 2010. "Cultura, valores y ciclos largos del desarrollo capitalizado," in: Curtis R. Carlson, Alfonso Gambardella, Hugh Herr et al., *Innovation: Perspectives for the 21st Century*. Madrid: BBVA, 115.
- Singer, P. 2009. "Ethics from a Global Perspective," in Wallace S. Broecker, Jordi Canals, Peter Dicken et al., *The Multiple Faces of Globalization*, Madrid: BBVA, 258.

>> Businesses in the 21st century have to be responsible; they must respond to the legitimate demands of their environment and make commitments to the societies in which they have a presence. They have two very important motives for doing so: conviction and their own interest: conviction because ethics and positive values must constitute the nucleus of their corporate culture; and interest because companies have to relate with an increasingly better-informed and demanding society and therefore need greater legitimacy to successfully engage in their activities in the medium and long term. We need better regulation, but not more regulation. Moreover, we need more principles, more ethics in business and in the finance industry. That is because ethical principles ensure proper conduct in an innumerable number of situations not covered by the law (or not strictly regulated by the authorities responsible for enforcing it). As Earl Warren, Chief Justice of the U.S. Supreme Court for many years, once said, “in civilized life, the law floats in a sea of ethics.”

FRANCISCO GONZÁLEZ

BBVA

I. ETHICS IN A GLOBAL WORLD

THE GLOBAL ECONOMIC CRISIS REQUIRES A GLOBAL ETHIC

The Manifesto for a Global Economic Ethic

Hans Küng

Today, more and more people realize that the global economic and financial crisis also concerns common ethical values and standards. One might argue: do we not have laws which just need to be enforced? Sure, solutions to this crisis require all the provisions of the law. But laws are not enough. As you know, the political will to fight greed, fraud, corruption and self-aggrandizement is often weak because it is not supported by an ethical will. Laws without morality cannot endure, and no legal provision can be implemented without moral consciousness based on some elementary ethical standards. But is this not just an issue of individual morality? Not at all, it is also an issue of corporate morality and concerns the global market economy as a whole. Hence my first reflection:

THE FAILURE OF MARKETS, INSTITUTIONS AND MORALITY CALLS
FOR AN ETHICAL FRAMEWORK

Recent experiences have proved that the sustainability of the market economy is by no means guaranteed. Indeed, one cannot escape the fact that the emergence of global capitalism has brought with it an entirely new set of risks. Trying to find a single reason for, or solution to, the challenges of the global market economy in a particular country or in a

particular region is unlikely to be successful. In fact, what we often observe is that, in such a situation, mutual recriminations occur: economists accuse politicians and politicians accuse economists, while the average citizen frequently sees the moral defects of both protagonists. In any case, if only one of the three elements, whether it be economics, politics, or morality, does not work, it can cause serious difficulties for the market economy.

Scholars distinguish between three types of failures of the capitalist system (Dunning 2001):

1. *A failure of markets*: moral hazard, inappropriate macroeconomic politics, excessive speculation (property and stock market), etc.
2. *A failure of the institutions*: inefficient functioning of the regulatory and supervisory systems, an inadequate legal and financial infrastructure, lack of accountability and/or transparency and inadequate standards in financial reporting.
3. *A failure of moral virtues*, which lies at the core of the failure of the markets and institutions. Such failures include casino-capitalism and corruption; lack of truthfulness, trust and social responsibility, and excessive greed of the investors or institutions; falsified balance sheets and illegal manipulation of the markets.

Of course, all three dimensions are man-made and can be influenced by men: the markets by the behavior of customers and the supply-structures, the institutions by wise regulations, enforced standards and transparent self-commitments. People therefore have the moral responsibility to build an adequate institutional framework for the economy.

Obviously ethics are not just the icing on the cake; they are not just marginal or artificially put-on features in shaping the global market economy. No, it is justified to talk of a *moral framework* which is both

interactive and interdependent with the economic function of the main institutions of the economic system: markets, governments, civil society and supranational organizations.

Laws without morality cannot endure, and no legal provision can be implemented without moral consciousness based on some elementary ethical standards

One conclusion we can draw is that ethics does *not only* denote *moral appeals*, but also *moral action*. Nevertheless a strain is often needed in the economy, as within the contemporary crisis, in order to create the pressure to reform which can turn into a political agenda. I strongly believe that in the long run, the global market economy will only be accepted in the different regions and nations if it is socially acceptable. After all, in a democratic society the majority of the electorate has repeatedly to be convinced that a strong ethical framework supports both the operation and the effects of the global markets and the extra-market institutions. Such a framework influences the behavior and the decisions of those who are directly involved in the process of production and distribution and of those who bear political responsibility. But what could be elements of this ethical framework? In this respect a lot of people have doubts: is a global consensus possible? Hence my second reflection:

THE CLAIMS OF THE UN GLOBAL COMPACT AS WELL AS THE OECD GUIDELINES REQUIRE CROSS-CULTURAL ETHICAL VALUES AND STANDARDS

Obviously, all ethical values and standards are culture-bound, but there are core values and standards that are universal. In this respect, the UN Global Compact, which was initiated by Secretary-General Kofi Annan in

1999, offers a most valuable starting point. It has already been joined by more than 5,200 corporate participants and stakeholders from over 130 countries. The claims it makes on corporate conduct in a globalized economy are fourfold: 1. respect for and support of human rights, 2. adherence to responsible labor standards, 3. protection of the environment according to the precautionary principle, and 4. work against corruption in all its forms. These claims are obviously based on the conviction that everywhere on earth—i.e. in all societies, cultures and religions—people need to recognize and accept comparable basic pillars which allow them to live together peacefully without compromising their interests and concerns. In this respect, the contents of the UN Global Compact are very much in accord with the ideas of the above-mentioned *Declaration Toward a Global Ethic* of the Parliament of the World's Religions in Chicago in 1993. It has been confirmed by the Inter-Action Council's proposal for a "Universal Declaration of Human Responsibilities" and by the manifesto "Crossing the Divide: Dialogue among Civilizations."

Based on the Chicago Declaration, the new Manifesto, "Global Economic Ethic – Consequences for Global Businesses" intends to support the Global Compact from the angle of ethics.

At this point, the OECD *Guidelines for Multinational Enterprises* (OECD 2000) also deserve to be quoted. Their claims presuppose very specific ethical standards, notably:

- the claim for disclosure: it requires the will to adhere to *truthfulness*, honesty, transparency.
- the claim for environmental protection, public health, and safety: it requires *reverence for life*, all life including that of animals and plants;
- the claim to refrain from slush corruption and bribery: it requires both a basic attitude toward *justice* and *fairness* and the will to encompass a just economic system;

– the claim to avoid any kind of gender, color or age discrimination at the workplace: it implies the ethical conviction of the *partnership* of men and women and the need for equal rights.

A strong ethical framework supports both the operation and the effects of the global markets and the extra-market institutions

Whoever assumes that these are only abstract and general statements should read the above-mentioned *Declaration Toward a Global Ethic*; the text can be found on the homepage of the Global Ethic Foundation (www.global-ethic.org). There, principles stemming from all the major ethical and religious traditions are applied to contemporary situations. All this leads us to conclude that the question of cross-cultural global values and ethical standards which is crucial for the success of the global market economy can, indeed, be answered, despite all cultural differences. This leads me to my third reflection:

SUCH A GLOBAL ETHIC IS BASED ON THE PRINCIPLES OF HUMANITY AND RECIPROCITY AND THE BASIC STANDARDS OF NON-VIOLENCE, FAIRNESS, TRUTHFULNESS AND PARTNERSHIP

A lot of what is proclaimed as God's commandments in the Hebrew Bible, in the New Testament and in the Koran can also be found in the religions and philosophies of Indian and Chinese origins and also in humanist philosophies not rooted in any religion.

The Global Ethic Declaration identified two basic principles which underlie all ethical values and standards: humanity ("ren" in Chinese) and reciprocity ("shu"):

- first, the *principle of humanity*. When this is applied, it changes the atmosphere in any office, factory, store or business: “Every human being—man or woman, white or colored, rich or poor, young or old—must be treated humanely and not inhumanely, even bestially.”
- second, the *principle of “reciprocity”* or the Golden Rule. It can be found already in the analects of Confucius, but also in the Biblical, Islamic and other traditions: “What you do not wish done to yourself, do not do to others.”

Two basic principles underlie all ethical values and standards: humanity and reciprocity

The Global Ethic Declaration of 1993 is the ethical frame of reference for this new *Manifesto for a Global Economic Ethic*. The principle of humanity, supported by the Golden Rule of reciprocity (Art. 4), also constitutes the foundation (Part I) of this new Manifesto (Art. 1–4).

Based on these two fundamental principles, there are *four basic values and standards* (Part II) already to be found in the writings of Patanjali, the founder of yoga, but also in the Buddhist Canon and in all major religious and non-religious traditions: do not murder, do not steal, do not lie and do not abuse sexuality. They also structure our Manifesto:

- a commitment to a culture of non-violence and reverence for life (Art. 5–6);
- a commitment to a culture of fairness and a just economic order (Art. 7–9);
- a commitment to a culture of truthfulness and tolerance (Art. 10–11);
- a commitment to a culture of partnership and equal rights for men and women (Art. 12–13).

THE *MANIFESTO ON A GLOBAL ECONOMIC ETHIC* REMINDS ALL STAKEHOLDERS IN GLOBAL BUSINESSES OF THEIR INDIVIDUAL RESPONSIBILITIES FOR HUMANIZING THE FUNCTIONING OF THE GLOBAL ECONOMY: GLOBALIZATION NEEDS A GLOBAL ETHIC

The Manifesto does not presuppose a specific ethical system (“ethics”), but only a few elementary ethical values and standards which are common to all humanity (“ethic” or “ethos” as an internal ethical conviction or attitude, a personal commitment to live by binding values, set standards and personal fundamental principles or virtues).

This Manifesto was drafted by a group of economists, businessmen, and ethicists under the auspices of the Global Ethic Foundation. It is understood as a response to the current global economic crisis from the angle of ethics but work on the declaration had already started long before. The call for an ethical framework for the global financial markets and global economics has been heard loudly from many sides worldwide since the beginning of the current crisis. By offering this Manifesto, the Global Ethic Foundation builds on its ethical expertise especially expressed by the *Declaration Toward a Global Ethic* (see Küng 1993).

In the Global Ethic Foundation, the authors reflected carefully on the criteria of such a Manifesto. It should show a way between an economism that ignores moral standards and a moralism that ignores economic realities. It should avoid being a casuistic moral sermon or an enthusiastic religious proclamation. It should rather

- be related to reality;
- reach to the deeper ethical levels;
- be comprehensible beyond narrow circles of experts; and
- be capable of securing a consensus.

The Manifesto therefore avoids statements which might *a priori* be rejected by particular ethical or religious traditions (e.g. on interest). The authors are convinced that the Manifesto has been worked out in accordance with these criteria. This new *Manifesto on a Global Economic Ethic* reminds all stakeholders in global businesses of their individual responsibilities for humanizing the functioning of the global economy: globalization needs a Global Ethic.

At symposia at New York, Beijing University, Basel and Melbourne, the Manifesto was presented in order to stimulate the global discourse on ethic and economy. The following further steps are planned:

- a search for endorsement from more signatories from business, economics, and politics;
- discussion of the Manifesto in economic circles, companies, and other relevant fora.

This Manifesto is not a legally-binding document but a moral appeal. The signatories show that they endorse the analyses and suggestions expressed in the Manifesto and wish to contribute to the development of an ethical framework for the global economy. But the signatories will not be held accountable for the implementation of any of the demands and suggestions expressed in the text.

Our Manifesto is not a repressive, but a constructive and helpful document. It provides everybody in these stormy seas with orientation as a chart to steer by, a map with clear ethical coordinates and finally a compass: a conscience which functions incorruptibly even in crisis, an ethical guideline for the difficult decisions that need to be taken in the harsh reality of everyday life.

As human beings we are again and again faced with ethical dilemmas: explicit conflict situations and clashes of duty—in both the individual and

the social spheres. Indeed, seldom is a situation so clear that there are not also reasons for an opposite moral decision. What should we do in such a case? For example: should we buy products from a foreign country where child labor is involved? My fifth reflection:

NORMS WITHOUT A SITUATION ARE EMPTY, AND A SITUATION WITHOUT A NORM IS BLIND

Ethics is neither dogma nor tactics. Neither the law alone, as in legalistic ethics, nor the situation alone, as in situation ethics, should dominate. Norms without a situation are empty, and a situation without a norm is blind.

That means that: norms should illuminate a situation, and the situation should govern the norms. Or in other words: what is moral is not just what is good or right in the abstract, but what is good or right in the specific instance—what is appropriate. You see, obligation becomes specific only in a particular situation. But, on the other hand, in a particular situation the obligation can become unconditional; of course the particular situation can be identified only by the person involved. This means that our “ought” is always related to the situation, but in a particular situation the “ought” can become categorical, without ifs and buts. So in any concrete moral decision the universal normative constant must be bound up with the particular variables which are conditioned by the situation.

Both for individuals and for institutions, in specific instances it is often very difficult to weigh up benefits. To facilitate the choice, which nowadays often displays quite different dimensions of space and time, present-day ethics has developed a whole series of rules for priority and certainty. I shall give a brief version of some of them here:

1. a rule for solving problems. There must be no scientific or technological process which, when realized, creates greater problems than solutions.
2. a rule for the burden of proof. Anyone who presents new scientific knowledge, approves a particular technological innovation, or sets going a particular form of industrial production, has to demonstrate that what is embarked on does not cause either social or ecological damage.
3. a rule for the common good. Interest in the common good has priority over individual interest—as long as (and this point has to be made against the Fascist “common use comes before personal use”) personal dignity and human rights are preserved.
4. a rule of urgency. The more urgent value has priority over a value which is intrinsically higher.
5. an ecological rule. The ecosystem, which may not be destroyed, has priority over the social system.
6. a rule of reversibility. In technical developments, reversible developments have priority over irreversible ones: there should be only so much irreversibility as is absolutely necessary.

CONCLUSION

All this may sound a little abstract. But our new Manifesto is very concrete. Let me therefore conclude with its Preamble.

For the globalization of economic activity to lead to universal and sustainable prosperity, all those who either take part in or are affected by economic activities are dependent on values-based commercial exchange and cooperation. This is one of the fundamental lessons of today's worldwide crisis of the financial and product markets.

Further, fair commercial exchange and cooperation will only achieve sustainable societal goals when people's activities to realize their

legitimate private interests and prosperity are embedded in a global ethical framework that enjoys broad acceptance. Such an agreement on globally accepted norms for economic actions and decisions—in short, for “an ethic of doing business”—is still in its infancy.

A global economic ethic—a common fundamental vision of what is legitimate, just, and fair—relies on moral principles and values that from time immemorial have been shared by all cultures and have been supported by common practical experience.

Each one of us—in our diverse roles as entrepreneurs, investors, creditors, workers, consumers, and members of different interest groups in all countries—bears a common and essential responsibility, together with our political institutions and international organizations, to recognize and apply this kind of global economic ethic.

**MANIFESTO
GLOBAL ECONOMIC ETHIC
CONSEQUENCES FOR GLOBAL BUSINESSES**

UN Headquarters, New York

6 October 2009

Preamble

For the globalization of economic activity to lead to universal and sustainable prosperity, all those who either take part in or are affected by economic activities are dependent on values-based commercial exchange and cooperation. This is one of the fundamental lessons of today's worldwide crisis of the financial and product markets.

Further, fair commercial exchange and cooperation will only achieve sustainable societal goals when people's activities to realize their legitimate private interests and prosperity are embedded in a global ethical framework that enjoys broad acceptance. Such an agreement on globally accepted norms for economic actions and decisions—in short, for “an ethic of doing business”—is still in its infancy.

A global economic ethic—a common fundamental vision of what is legitimate, just, and fair—relies on moral principles and values that from time immemorial have been shared by all cultures and have been supported by common practical experience.

Each one of us—in our diverse roles as entrepreneurs, investors, creditors, workers, consumers, and members of different interest groups in all countries—bears a common and essential responsibility, together with our political institutions and international organizations, to recognize and apply this kind of global economic ethic.

For these reasons, the signatories of this declaration express their support of the following Manifesto.

Manifesto for a Global Economic Ethic

In this declaration, the fundamental principles and values of a global economy are set forth, according to the *Declaration toward a Global Ethic* issued by the Parliament of World Religions in Chicago in 1993. The principles in this manifesto can be endorsed by all men and women with ethical convictions, whether these be religiously grounded or not. The signatories of this declaration commit themselves to being led by its letter and its spirit in their day-to-day economic decisions, actions, and general behavior. This Manifesto for a Global Economic Ethic takes seriously the rules of the market and of competition; it intends to put these rules on a solid ethical basis for the welfare of all.

Nothing less than the experience of the current crisis affecting the whole economic sphere underlines the need for those internationally accepted ethical principles and moral standards, which we all need to breathe life into our day-to-day business practices.

I. The principle of humanity

The ethical frame of reference: *Differences between cultural traditions should not be an obstacle to engaging in active cooperation for esteem, defense, and fulfillment of human rights. Every human being—without distinction of age, sex, race, skin color, physical or mental ability, language, religion, political view, or national or social origin—possesses an inalienable and untouchable dignity. Everyone, the individual as well as the state, is therefore obliged to honor this dignity and protect it. Humans must always be the subjects of rights, must be ends and never mere means, and must never be the objects of commercialization and industrialization in economics, politics, and the media, in research institutes, or in industrial corporations.*

The fundamental principle of a desirable global economic ethic is humanity: Being human must be the ethical yardstick for all economic action: it becomes concrete in the following guidelines for doing business in a way that creates value and is oriented to values for the common good.

Article 1

The ethical goal of sustainable economic action, as well as its social prerequisite, is the creation of a fundamental framework for sustainably fulfilling human beings' basic needs so that they can live in dignity. For that reason, in all economic decisions the uppermost precept should be that such actions always serve the formation and development of all the individual resources and capabilities that are needed for a truly human development of the individual and for living together happily.

Article 2

Humanity flourishes only in a culture of respect for the individual. The dignity and self-esteem of all human beings—be they superiors, co-workers, business partners, customers, or other interested persons—are inviolable. Never may human beings be treated badly, either through individual ways of conduct or through dishonorable trading or working conditions. The exploitation and the abuse of situations of dependence as well as the arbitrary discrimination of persons are irreconcilable with the principle of humanity.

Article 3

To promote good and avoid evil is a duty of all human beings. Thus this duty must be applied as a moral yardstick to all economic decisions and courses of action. It is legitimate to pursue one's own interests, but the deliberate pursuit of personal advantage to the detriment to one's partners—that is, with unethical means—is irreconcilable with sustainable economic activity to mutual advantage.

Article 4

What you do not wish done to yourself, do not do to others. This *Golden Rule* of reciprocity, which for thousands of years has been acknowledged in all religious and humanist traditions, promotes mutual responsibility, solidarity, fairness, tolerance, and respect for all persons involved.

Such attitudes or virtues are the basic pillars of a global economic ethos. Fairness in competition and cooperation for mutual benefit are fundamental principles of a sustainably developing global economy that is in conformity with the *Golden Rule*.

II. Basic values for global economic activity

The following basic values for doing business globally further develop the fundamental principle of humanity and make concrete suggestions for decisions, actions, and general behavior in the practical sphere of economic life.

Basic values: non-violence and respect for life

The ethical frame of reference: *To be authentically human in the spirit of our great religious and ethical traditions means that in public as well as in private life we must be concerned for others and ready to help. Every people, every race, every religion must show tolerance and respect—indeed high appreciation—for every other. Minorities—be they racial, ethnic, or religious—require protection and support by the majority.*

Article 5

All human beings have the duty to respect the right to life and its development. Respect for human life is a particularly lofty good. Thus every form of violence or force in pursuit of economic goals is to be rejected. Slave labor, compulsory labor, child labor, corporal punishment, and other violations of recognized international norms of labor law must be suppressed and abolished. With utmost priority, all economic agents must guarantee the protection of human rights in their own organizations. At the same time, they must make every effort to see to it that, within their sphere of influence, they do nothing that might contribute to violations of human rights on the part of their business partners or other parties involved. In no way may they themselves draw profit from such violations.

The impairment of people's health through adverse working conditions must be stopped. Occupational safety and product safety according to state-of-the-art technology are basic rights in a culture of non-violence and respect for life.

Article 6

Sustainable treatment of the natural environment on the part of all participants in economic life is an uppermost value-norm for economic activity. The waste of natural resources and the pollution of the environment must be minimized by resource-conserving procedures and by environmentally friendly technologies. Sustainable clean energy (with renewable energy sources as far as possible), clean water and clean air are elementary conditions for life. Every human being on this planet must have access to them.

Basic values: justice and solidarity

The ethical frame of reference: To be an authentic human being means—in the spirit of the great religious and ethical traditions—not misusing economic and political power in a ruthless struggle for domination. Such power is instead to be used in the service of all human beings. Self-interest and competition serve the development of the productive capacity and the welfare of everyone involved in economic activity. Therefore, mutual respect, reasonable coordination of interests, and the will to conciliate and to show consideration must prevail.

Article 7

Justice and the rule of law constitute reciprocal presuppositions. Responsibility, rectitude, transparency, and fairness are fundamental values of economic life, which must always be characterized by law-abiding integrity. All those engaged in economic activity are obliged to comply with the prevailing rules of national and international law. Where deficits exist in the quality or the enforcement of legal norms in a

particular country, these should be overruled by self-commitment and self-control; under no circumstances may one take advantage of them for the sake of profit.

Article 8

The pursuit of profit is the presupposition for competitiveness. It is the presupposition for the survival of business enterprises and for their social and cultural engagements. Corruption inhibits the public welfare, damaging the economy and the people, because it systematically leads to false allocation and waste of resources. The suppression and abolition of corrupt and dishonest practices, such as bribery, collusion agreements, patent piracy and industrial espionage, demand preventive engagement, which is a duty incumbent on all those active in the economy.

Article 9

A major goal of every social and economic system that aims at equal opportunity, distributive justice, and solidarity is to overcome hunger and ignorance, poverty and inequality, throughout the world. Self-help and outside help, subsidiarity and solidarity, private and public engagement—all these are two sides of the same coin: they become concrete in private and public economic investments, but also in private and public initiatives to create institutions that serve to educate all segments of the population and to erect a comprehensive system of social security. The basic goal of all such efforts is true human development directed at the promotion of all those capabilities and resources that enable men and women to lead a life of self-determination in full human dignity.

Basic values: honesty and tolerance

The ethical frame of reference: *To be authentically human in the spirit of our great religious and ethical traditions means that we must not*

confuse freedom with arbitrariness, or pluralism with indifference to truth. We must cultivate integrity and truthfulness in all our relationships instead of dishonesty, dissembling and opportunism.

Article 10

Truthfulness, honesty, and reliability are essential values for sustainable economic relationships that promote general human well-being. They are prerequisites for creating trust between human beings and for promoting fair economic competition. On the other hand, it is also imperative to protect the basic human rights of privacy and of personal and professional confidentiality.

Article 11

The diversity of cultural and political convictions, as well as the diverse abilities of individuals and the diverse competencies of organizations, represent a potential source of global prosperity. Cooperation for mutual advantage presupposes the acceptance of common values and norms and the readiness to learn from each other and to respectfully tolerate one another's otherness. Discrimination of human beings because of their sex, race, nationality or beliefs cannot be reconciled with the principles of a global economic ethic. Actions that do not respect or that violate the rights of other human beings are not to be tolerated.

Basic values: mutual esteem and partnership

The ethical frame of reference: *To be authentically human in the spirit of our great religious and ethical traditions means the following: we need mutual respect, partnership, and understanding, instead of patriarchal domination and degradation, which are expressions of violence and engender counter-violence. Every individual has intrinsic dignity and inalienable rights, and each also has an inescapable responsibility for what she or he does and does not do.*

Article 12

Mutual esteem and partnership between all those involved—in particular, between men and women—is at once the prerequisite and the result of economic cooperation. Such esteem and partnership rest on respect, fairness and sincerity toward one’s partners, be they the executives of a firm or their employees, their customers, or other stakeholders. Esteem and partnership form the indispensable basis for recognizing situations in which unintentional negative consequences of economic actions pose a dilemma for all concerned—a dilemma that can and must be resolved by mutual effort.

Article 13

Partnership likewise finds its expression in the ability to participate in economic life, in economic decisions, and in economic gains. How such participation may be realized depends on the diverse cultural factors and regulatory structures prevailing in different economic areas. However, the right to join forces in order to responsibly pursue personal and group interests through collective action represents a minimum standard that must everywhere be recognized.

Conclusion

All economic agents should respect the internationally accepted rules of conduct in economic life; they should defend them and, within the framework of their sphere of influence, work together for their realization. The human rights and responsibilities as proclaimed by the United Nations in 1948 are fundamental. Other global guidelines issued by recognized transnational institutions—the Global Compact of the United Nations, the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization, the Rio Declaration on Environment and Development, and the UN Convention against Corruption, to name just a few—all agree with the demands set forth in this Manifesto for a Global Economic Ethic.

First signatories

A.T. Ariyaratne, Founder-President, Sarvodaya Movement, Sri Lanka

Leonardo Boff, Theologian and Writer, Brazil

Michel Camdessus, Gouverneur honoraire de la Banque de France

Walter Fust, CEO, Global Humanitarian Forum

Prince El Hassan bin Talal, Jordan

Margot Kässmann, Lutheran Bishop of Hanover and Chairperson of the Council of the Evangelical Church in Germany

Georg Kell, Executive Director, UN Global Compact Office

Samuel Kobia, General Secretary of World Council of Churches

Hans Küng, President, Global Ethic Foundation

Karl Lehmann, Cardinal, Bishop of Mainz

Klaus M. Leisinger, CEO, Novartis Foundation

Peter Maurer, Ambassador and Permanent Representative of Switzerland to the United Nations

Mary Robinson, President, Realizing Rights: The Ethical Globalization Initiative

Jeffrey Sachs, Director, The Earth Institute, Columbia University

Juan Somavia, Director General, International Labour Organization

Desmond Tutu, Archbishop Emeritus and Nobel Peace Prize Laureate

Daniel Vasella, CEO, Novartis International

Tu Weiming, Professor of Philosophy, Harvard University and Beijing University

Patricia Werhane, Professor of Business Ethics, University of Virginia, Darden School of Business and DePaul University

James D. Wolfensohn, former President of the World Bank

Carolyn Woo, Dean, Mendoza College of Business University of Notre Dame

The declaration was composed by a working committee of the Global Ethic Foundation:

Prof. Dr. Heinz-Dieter Assmann (Tübingen University)

Dr. Wolfram Freudenberg (Freudenberg Group)

Prof. Dr. Klaus Leisinger (Novartis Foundation)

Prof. Dr. Hermut Kormann (Voith AG)

Prof. Dr. Josef Wieland (Drafter, Konstanz University of Applied Sciences)

Prof. h.c. Karl Schlecht (Putzmeister AG)

Officers of the Global Ethic Foundation:

Prof. Dr. Hans Küng (President)

Prof. Dr. Karl-Josef Kuschel (Academic Advisor)

Dr. Stephan Schlenzog (Secretary-General)

Dr. Günther Gebhardt (Senior Advisor)

Tübingen, 1 April 2009

BIBLIOGRAPHY

- Dunning, John Harry. 2001. *Global capitalism at bay?* London: Routledge.
- Küng, Hans. 1990. *Projekt Weltethos*. Munich: Piper.
- Küng, Hans. 1993. *Declaration toward a global ethic*. Chicago: Council for a Parliament of the World Religions.
- Küng, Hans. 1997. *Weltethos für Weltpolitik und Weltwirtschaft*. Munich: Piper.
- Küng, Hans, and Karl-Josef Kuschel. 1998. *Wissenschaft und Weltethos*. Munich: Piper.
- Picco, Giandomenico, Richard von Weizsäcker, and Hans Küng. 2001. *Crossing the Divide. Dialogue among Civilizations*. Seton Hall University, South Orange, NJ: Seton Hall University.
- Küng, Hans. 2002. *Dokumentation zum Weltethos*. Munich: Piper.
- Küng, Hans. 2002. *Wozu Weltethos? Religion und Ethik in Zeiten der Globalisierung (im Gespräch mit Jürgen Hoeren)*. Fribourg: Herder.
- Küng, Hans, and Dieter Senghaas. 2003. *Friedenspolitik. Ethische Grundlagen internationaler Beziehungen*. Munich: Piper.
- Küng, Hans, and Angela Rinn-Maurer. 2005. *Weltethos christlich verstanden*. Fribourg: Herder.
- Küng, Hans, and Walter Homolka. 2008. *Weltethos aus den Quellen des Judentums*. Fribourg: Herder.
- Küng, Hans. 2010. *Anständig wirtschaften. Warum Ökonomie Moral braucht*. Munich: Piper.
- Organisation for Economic Co-operation and Development. 2000. *OECD guidelines for multinational enterprises*. Paris: OECD.

>> The global economic and financial crisis concerns common ethical standards. Laws need morality and global laws require a shared ethic. Claims made by the UN Compact and the OECD guidelines require cross-cultural ethical values. But this does not presuppose a specific ethical system but rather just a few common values and standards. The Manifesto for a Global Economic Ethic is based on four such values, shared by the major world religions: these are commitments to non-violence and reverence for life; to fairness and a just economic order; to truthfulness and tolerance; and to partnership and equal rights for men and women.

HANS KÜNG

Global Ethics Foundation

ETHICS AND GLOBAL GOVERNANCE

Mervyn Frost

At present there is no global state and thus no global government. Instead, in the contemporary world there are 194 sovereign states that coexist in a globalising world order. They coexist in a world in which there is a myriad of transnational interactions that have led over time to the creation of a huge number of international organisations of one kind or another. These include churches, multinational corporations, international scientific organisations, trade union movements, international sporting bodies, and so on. There is a huge literature on this process of globalisation (Waters 1995; Clark 1997; Scholte 2000; Lipschutz 1992). Within this complex world there has emerged a need for transnational rules of conduct to guide those engaged in this world of global interaction. Transnational rules are needed for the purposes of coordination, conflict prevention, dispute resolution, standard-setting, and so on. Nowhere is this currently more apparent than in the world of international banking as it confronts the international financial crisis. Without these rules regulating our new social enterprises in the existing globalised international practices, an orderly day-to-day existence would not be possible. A functioning set of such rules is a prerequisite for the ongoing operation of our globalised international order. In order to be effective the rules need to be binding on the participants in this globalizing society. Adherence to framework rules cannot be on a

voluntary *ad hoc* basis. The creation of a rule-guided global order requires institutions of global governance that can create regulatory frameworks which are binding on the actors in specified functional areas. This raises the question: what are the institutions of global governance that provide framework rules, in the absence of a global state with an associated government?

The answer to the question posed at the end of the last paragraph is not simple. Rule-making for a globalized world (the setting-up of the appropriate regulatory practices) has been undertaken by many different kinds of organisations ranging from treaty-based ones such as the UN, NATO, the IMF and so on, to any number of different kinds of non-governmental organisations (NGOs). A detailed classification of these would require a book-length treatment.

The creation of a rule-guided global order requires institutions of global governance

In spite of the variety of mechanisms for global governance, it is nevertheless important to point out a few general features about governance arrangements that have been put in place in this world without global government. First, all such bodies are *limited* in that they are confined to specific areas of competence—they make rules covering very specific functions and activities (banking, environmental preservation, energy production and distribution, and so on). The jurisdictions of governance bodies are limited to particular functions and often to specific geographical areas. Second, many governance bodies overlap in their fields of operation. Third, none of them possess the sovereignty that is the primary feature of states. Fourth, these organisations come into being at different times for different purposes. Finally, fifth, the world of governance bodies is in a state of perpetual flux:

new ones come into being as old ones fall into disuse. An implication of this is that there are often disputes about who is entitled to make rules, about what, in which areas.

The institutions of global governance do not come into being in a vacuum, but are created in existing global practices by actors constituted within those practices. The two key practices within which the institutions of international governance come into being are anarchical ones. They are the society of sovereign states, on the one hand, and global civil society, on the other. Both of these are anarchical in the strict sense of the word. That is, in both of them the individual actors that comprise the practice have equal sets of freedoms and are not subject to any over-arching sovereign government. In the first practice, sovereign states are the central actors. In the second, individual men and women, conceived of as rights holders, are the actors who comprise the practice (for more detail about these practices, see Frost 2002).

In contemplating the vast range of bodies involved in global governance a fundamental question to ask is: "Are they ethical?" Although it is commonplace to ask this question of our formal state structures, as we often do in making ethical judgements about the merits of absolute monarchies (Swaziland), totalitarian states (North Korea), authoritarian states (Burma), failed states and weak states (Somalia), it is less common to make them about the bodies that carry out global governance. In making ethical judgements about sovereign states, we draw on democratic theory, theories of human rights, and theories of justice, amongst others. There are easy and well-rehearsed debates about the merits of social democracies versus the ethical merits of totalitarian states. More complicated are discussions, often entered into, about the ethical merits of different kinds of democracies, for example, unitary states versus federal ones. Similarly, there are complex arguments to be had about different kinds of electoral systems. At the international level,

ethical arguments are often entered into about the merits of the society of sovereign states when compared to some other imagined international order (a communist one, for example). There are also ethical debates about our contemporary systems for the international distribution of scarce resources and about the freedom, or lack of freedom, that people have to move about the world as they wish. Such debates are informed by theories of international justice.

Why has there been rather limited discussion about the ethical merits of the many different forms of global-governance bodies that have emerged in recent times? Presumably this is so because governance bodies are so many, so diverse and because they are less well understood than sovereign states. In order to remedy this lack, let us now turn to a consideration of the ethics of global governance.

A good point of departure is to note that the many different governance structures in world politics were created by actors in the two practices briefly mentioned above. Those setting up governance institutions are either sovereign states in the society of sovereign states, or individual men and women rights holders in global civil society. These actors do not exist in a vacuum, but are constituted as what they are (and who they value themselves to be) within the two practices already named. An important implication of this is that these actors are constrained by the ethical values embedded in the practices within which they are constituted as states or as individual rights holders. The fact of their social constitution puts ethical constraints on what institutions of global governance it would be appropriate for them to create. The rest of this chapter will set this claim out in more detail and will explore the implications that follow from it.

There is a whole range of areas in global affairs within which actors are at present seeking to construct adequate governance structures. Here is a

short list of areas in which governance issues are currently pressing: global finance, global banking, global warming, the distribution of genetically modified food, global terrorism, international migration, and the regulation of private military companies. There are many others. The actors seeking to tackle these issues are both states and private individuals (who often work through specific associations). As already noted, these actors are not free-floating entities who are waiting in some limbo to create structures of global governance appropriate to the issues listed. They are also not properly understood as actors who are free to choose what ethical code to apply in their deliberations about the appropriate forms of governance to be introduced. Quite the contrary, these actors are already participants in highly sophisticated global practices in which elaborate ethical codes are embedded.

Consider, in the first instance, sovereign states. To be a sovereign state is to be constituted as such in the practice of sovereign states. By this it is meant that what counts as a participant state is determined by other states within the practice of states. For any state, *recognition* from the other states as a legitimate participant is fundamental to being a participant. The whole practice is based on the mutual recognition that states give one another. There are many entities around the world who wish to become participants in the society of states, but who have not yet been given the appropriate recognition. The Republic of Somaliland is one of these and so, too, is the Palestinian Authority. The recognition requirement referred to here is common to all social practices. Football clubs, churches, schools, universities, private clubs, and so on, all have internal rules and regulations about the criteria to be applied before an actor is recognized as a *bona fide* participant in the practice. One of the key features involved in becoming a participant in a social practice is that the actor in question has to understand, accept and promote the ethical values embedded in the practice to which entry is sought. Thus, for example, students joining King's College, London have to accept the

ethical commitments embodied in the college. These include, amongst other things, a commitment to the search for truth, to be bound by the rules of evidence, and the rejection of plagiarizing practices. In like fashion, entities that are accepted into the practice of states have to accept the values associated with that practice. These are a commitment to the sovereign autonomy of individual states and an acceptance of the value of diversity between states within the practice, accepting, that is, that some states will be socialist, some liberal, some communist, some Islamic, and so on. In this society the participants have a right to be different.

Upon entering into any practice as a fully-fledged participant, actors learn about a menu of possible legitimate actions that are open to them as participants. In the practice of university life, students have made available to them opportunities for, amongst other things, academic research and scholarly analysis. In the practice of sovereign states, states have made available to them the possibility of making certain kinds of alliances with other states, the freedom to pursue internal policies as chosen by their own citizens, and the freedom to pursue their own international diplomatic and economic goals. There are many other authorized actions available to them as participants in this practice.

In like manner, newcomers to practices have to learn about a whole slate of possible actions which are considered illegitimate within the practice. Students at King's learn about the illegitimacy of plagiarism and cheating. Sovereign states have to learn about the illegitimacy of waging aggressive war against other sovereign states, the illegitimacy of seeking to impose their preferred internal policies on other states, and that failing to keep their contracts in the international arena is wrong. At base, participants have to know what actions would be so contrary to the ethic embedded in their specific practice that doing them would result in their expulsion from

the practice. In sum then, learning the ethics is a requirement for participating in the practice.

Let us now look at the second global practice that is fundamentally important when considering the construction of units for global governance. This is global civil society (GCS). This is a worldwide practice that includes as participants everyone, everywhere. In GCS people constitute one another, through a process of reciprocal recognition, as holders of first-generation human rights. They recognize one another as being the holders of a more or less standard set of freedoms, that includes within it, the right to safety of the person (not to be killed, tortured, assaulted and so on), the right to freedom of movement, freedom of association, freedom to make contracts, freedom of conscience, academic freedom and the right to own property. There are often arguments amongst participants in GCS about what rights ought to be included in the list, but there is agreement on most of the core elements. Again, GCS, like all social practices, has built into it an ethical value slope. In this case the two core values which cohere with the rights that define the practice as a whole are the values of individual autonomy (broadly conceived) and the value of diversity. It is not possible to make sense of a rights-based practice without assuming that the participants value freedom and the diversity that their freedom makes possible.

In both the global practices that have been described here, rights holders will use their rights in different ways. In the one case it is states that will do this and in the other, it is individual men and women. A rights-respecting practice creates and nurtures diverse outcomes. In GCS as in the society of states, there are clear-cut requirements that have to be met before a person may be recognized as a participant. The major one is that he/she respect the rights of others in return for which he/she will be recognized as a rights holder. The second is that the rights holder nurture the diversity that comes about through his/her recognition of the rights

of others. Becoming a participant grants a person a whole slate of possible actions, most of which allow different kinds of association with other rights holders. As before, membership also requires of participants that they know what is not allowed within the practice; primarily they are required not to abuse the rights of others. In the worst case, abuse of the rights of others could result in the withdrawal of recognition from the participant by the other rights holders.

It is crucial for the purposes of this chapter to understand that all those who are charged with creating the governance structures to deal with the issues listed above are concurrently participants in both of the practices outlined above and are thus constrained by the ethical values on which the practice is built. They are at the same time both actors within the society of sovereign states (in their capacity as citizens) and actors in GCS as rights holders. All people, everywhere, are simultaneously participants in these practices and also in any number of other local (not global) practices such as the family, the church, schools, colleges, private clubs and so on. What follows from this is that as circumstances change, practices have to adapt to these changes. It often comes about that what is required from the ethical point of view of one practice might come to clash with what is required ethically within another. Finding ways to deal with such tensions is central to planning and policy-making with regard to governance. So, for example, it might seem at first as if there is an inherent tension between what is ethically required of an actor in GCS (claiming and respecting individual human rights) and what is ethically required of an actor in the society of sovereign states (protecting the autonomy of his/her state). In some cases doing the latter might seem to require overriding the former. This might happen, for example, with regard to governance issues relating to migrants. When faced with such a puzzle, actors are required, if their lives are not to descend into ethical incoherence, to seek ways of resolving such tensions. One way in which this might be done is to insist

that states and their governments, in all that they do, also promote the GCS rights of individuals.

All those who are charged with creating the governance structures are at the same time both actors within the society of sovereign states and actors in global civil society as rights holders

What has been outlined in the previous paragraphs is a constitutive theory of individuality. It is a “constitutive” theory in that it shows that to be an actor on the international stage, a person has to be constituted as such in the global practices just described and that in order to maintain that standing, actors have to uphold the values embedded in the practices. According to this theory, ethical conduct must always be directed towards maintaining the inter-subjective reciprocal recognition achieved in these global practices. At base, the ethical constraints require of participants in these practices, in all that they do, that they strive to not undermine the ethical values in terms of which they are constituted. Their dependency on the recognition of others provides a constant pressure to ensure that they do just this. This process governs them in all that they do, including their efforts to put in place structures of global governance.

At this point it might be objected that constitutive theory is fundamentally conservative and that it cannot promote or account for social change and development in our global order. If the charge here is that constitutive theory is a static theory oriented only towards maintaining the *status quo*, then it misses the mark. This criticism fails to take seriously the ways in which participants in multiple constitutive practices have actively to engage in ethical construction as they encounter new and changed circumstances. Thus, for example, as new

technologies of communication (a sub-field of developments in the wider cyber domain) make it possible for people to form new communities across physical boundaries such as Facebook, Twitter, and YouTube, participants have to consider the ethical challenges these pose to traditional notions of politics, community and society. Do new, mobile phone-based political movements pose ethical threats to traditional ways of understanding political commitments? In order to maintain their inter-subjective standing as ethical beings, participants in both the society of sovereign states and GCS will have to think in profound ways about the implications of these new cyber-based social forms on their traditional ways of thinking about ethical standing. Confronting the challenges brought about by change in any number of ways requires participants in these practices to maintain an active engagement with difficult ethical arguments, not a simple-minded commitment to the ways things were done in the past.

Confronting the challenges brought about by change in any number of ways requires participants in these practices to maintain an active engagement with difficult ethical arguments

How does the above relate to questions of global governance? In the short space available, a single example about how to apply constitutive theory will have to suffice. The example chosen is from the military domain. Over the past few years many Western governments (especially the United States and the United Kingdom) have been privatizing many functions that were once carried out by the formal military apparatus of the state. The companies that have been contracted to do this work are now referred to as private military and security companies (PMSCs). The functions picked up by PMSCs include the guarding of installations in war zones, the provision of military prisons, the provision of security to high-net-value

individuals in war zones such as Iraq and Afghanistan, the provision of security to reconstruction and development teams, the maintenance of military vehicles in conflict zones, and so on. The privatization of these functions obviously poses governance issues within the global practices that have been discussed. Where the men and women performing them had previously been under the direct authority of the governments of the sovereign states which they served, they are now in the employ of private companies that are autonomous from governments in many ways. These companies are focused on profit-making. Are these companies to be left free from any direct control by governments? What forms of accountability are they to be held to? Many people have been highly critical of PMSCs, arguing that they (and the men and women serving in them) are no better than mercenaries. To put it crudely they are considered to be guns for hire to the highest bidder. The companies have denied this, committing themselves to the promotion of sovereign statehood in the areas within which they operate: the pursuit and protection of human rights, the rule of law and the promotion of democracy. In order to highlight their ethical commitments, many PMSCs agreed to participate in a process launched by the Swiss, United States and British governments to produce a Code of Conduct for Private Military and Security Providers. The Code of Conduct (COC) was launched in November 2010 in Geneva. Although more than 120 companies have signed the agreement, a problem of global governance remains. By what means will the code be monitored and by what means will the companies be held accountable to it? An interim steering committee has been charged with coming up with a solution to the governance problem. Consideration will now be given to how constitutive theory might guide their deliberations.

The committee that is seeking to craft an International Accountability Mechanism (IAM) will have to do so within the ethical constraints operative on its members as outlined in the earlier part of this chapter. Let us look at one proposal that is currently on the table and consider

how it fares when evaluated against the requirements of constitutive theory. The plan suggests that a suitable IAM could be provided by a trade association that serves the PMSC industry. It calls for the PMSCs to self-regulate through their own trade association. It is plausible to suppose that many privatized industries might contemplate a similar form of self regulation. The banking industry might be one such case. Here the suggestion might be that a bankers' trade association could set up an IAM for banks. The question then is: is such a manoeuvre ethical when judged by constitutive theory?

In order to answer this, constitutive theory requires that it be shown that the proposal does not undermine the values embedded in the practices within which the proposers themselves are constituted—that is, the practice of sovereign states and the GSC. As we have seen, these two practices enshrine the values of liberty and diversity. In the former it is the liberty and diversity of states, in the latter it is the liberty and diversity of individual rights holders. Would the proposal for an industry-based IAM do this? There are some clear-cut reasons for supposing that it would not meet the requirements of the theory. A key function of the IAM will be to determine whether any given PMSC has breached one of the commitments made when it signed the COC. For example, it might have to investigate whether a given company infringed the human rights of a group of people in the conflict zone. If the IAM is set up, recruited and paid for by the PMSC industry itself, there would seem to be good reason for supposing that it might well be biased towards finding in favour of the PMSC. It would confront the problem of being a judge in its own causes. An IAM established in this way would also suffer an ethical legitimacy problem in that many people from elsewhere in our global practices might well doubt the neutrality of a monitoring body that was set up by the industry itself. Such an IAM might also suffer a legitimacy problem amongst potential victims who could be harmed by the activities of the PMSC in the conflict zone in which it operates.

The point made in the previous paragraph can be stated in a very general way. The states, and the individuals who are constituted as who they value themselves to be in the practice of sovereign states and GCS respectively, are so constituted, as we have seen, through a process of reciprocal recognition whereby *all* the participants recognize one another as having equal sets of freedoms. Anything done towards setting up any governance body must consist of a set of actions which *any* member of these practices can clearly interpret as broadly contributing to the maintenance, upholding and development (in the face of new circumstances) of the fundamental ethical values embedded in these practices.

The states, and the individuals who are constituted as who they value themselves to be in the practice of sovereign states and GCS respectively, are so constituted through a process of reciprocal recognition

The key is reciprocal recognition. So the test of whether or not a proposed form of governance for PMSCs is ethical or not must be: would any of the other participants in the two key practices recognize what is being proposed as contributing to the upholding of the reciprocal relationships of recognition that contribute to the core values embedded in these two global practices? That is, do they contribute to maintaining the rights-based values of freedom and diversity? Let us consider whether the proposed IAM would do that. Constitutive theory allows that the matter be considered from the point of view of *any* participant in these global practices. Let us consider the proposal from the point of view of a person in a weak and failing state within which the PMSCs are operating. An accountability mechanism which is put in place and run by the trade association of PMSCs would be unlikely to convince such a person that it

is able to (or likely to) uphold the rights of the people in that state. Such a person is likely to see the proposed governance structure as insufficiently detached from the PMSCs it is holding to account, as having every incentive to make decisions in favour of its own members, to seek to hide infringements of the code from public scrutiny, and to hold the interests of the PMSC industry paramount at all times. A more ethical governance arrangement would be one which was independent of the industry itself, which included within it representatives of a number of different communities from the areas within which the PMSCs were operating. It would also be important that the mechanism not be too close to the customers that employ the PMSCs in order to make sure that the interests of these did not override the ethical commitments of the two global practices.

In conclusion then, this chapter has set out an ethical framework from within which the ethical worth of existing and proposed governance structures can be evaluated in a straightforward way.

BIBLIOGRAPHY

- Clark, Ian. 1997. *Globalization and Fragmentation: International Relations in the Twentieth Century*. Oxford: Oxford University Press.
- Frost, Mervyn. 2002. *Constituting Human Rights: Global Civil Society and the Society of Democratic States*. London: Routledge.
- Lipschutz, Ronnie D. 1992. "Reconstructing World Politics: The Emergence of Global Civil Society." In *Millennium: Journal of International Studies* 21 (3): 399–420.
- Scholte, Jan Aart. 2000. *Globalization: A Critical Introduction*. London.
- Waters, Malcolm. 1995. *Globalization*. London: Routledge.

>> In the absence of a global state or global government, international relations are regulated by multiple institutions of global governance that include treaty-based organisations and many formal and informal bodies in global civil society. What ethical constraints are applicable to them? The actors who construct global governance bodies are either states or individuals. Both are subject to rigorous ethical constraints because they are constituted as the actors in two key global practices: the society of sovereign states and global civil society. The values that constrain them in these practices are liberty and diversity. As states and individuals build the institutions of global governance, they are required to promote these two ethical values.

MERVYN FROST

King's College, London

SECULARISM AND MULTICULTURALISM

Charles Taylor

I believe that secularism and multiculturalism are converging. Put somewhat less enigmatically, the issues about the proper regime of secularism in Western democracies are becoming and more and more interwoven with issues about the proper ways to deal with the growing diversity of these societies.

1

Everyone agrees today that modern, diverse democracies have to be “secular” in some sense of this term. But in what sense? The term (along with the corresponding French term *laïcité*, and its derivatives) has more than one sense. There are in fact many different meanings, but I believe that we can get to a crucial issue if we single out two key conceptions.

On one view A, secularism is mainly concerned with controlling religion. Its task is to define the place of religion in public life, and to keep it firmly in this place. This doesn't need to involve strife or repression, provided various religious actors understand and respect these limits. But the various rules and measures which make up the secularist (or *laïque*) regime all have this basic purpose.

In the other view B, the main point of a secularist regime is to manage the religious and metaphysical-philosophical diversity of views (including non- and anti-religious views) fairly and democratically. Of course, this task will include setting certain limits to religiously motivated action in the public sphere, but it will also involve similar limits on those espousing non- or anti-religious philosophies. (For instance, the degree to which either can discriminate in certain relations, like hiring.) For B, religion is not the prime focus of secularism.

The case I would like to make here is that B is much superior to A, at least for our time. The popularity of A is to be explained by certain Western histories of struggle in which secularist regimes came to be. But our present predicament is for the most part rather different from the one which generated these conflicts. It is above all one of growing diversity in all Western democracies. For these reasons, B is more appropriate.

2

Let's look at what B involves a little more closely. In fact managing diversity involves a complex requirement. There is more than one good sought here. We can single out three, which we can class in the three categories of the French Revolutionary trinity: liberty, equality, fraternity.

1. No-one must be forced in the domain of religion, or basic belief. This is what is often defined as religious liberty, including of course, the freedom not to believe. This is what is also described as the "free exercise" of religion, in the terms of the United States First Amendment.
2. There must be equality between people of different faiths or basic belief; no religious outlook or (religious or areligious) *Weltanschauung* can enjoy a privileged status, let alone be adopted as the official view of the state.
3. All spiritual families must be heard and included in the

ongoing process of determining what the society is about (its political identity), and how it is going to realize these goals (the exact regime of rights and privileges). This (stretching the point a little) is what corresponds to “fraternity.”

These goals can, of course, conflict; sometimes we have to balance the goods involved here. Moreover, I believe that we might add a fourth goal: that we try as much as possible to maintain relations of harmony and comity between the supporters of different religions and *Weltanschauungen* (maybe this is what really deserves to be called “fraternity,” but I am still attached to the neatness of the above schema, with only the three traditional goods.)

The main point of a secularist regime is to manage the religious and metaphysical-philosophical diversity of views fairly and democratically

Why do I think that this diversity model B is superior to the religion-focused model A? One reason is that it is more even-handed. If we look at the three goals above, they are concerned respectively with 1. protecting people in their belonging and/or practice of whatever outlook they choose or find themselves in; 2. treating people equally whatever their option; and 3. giving them all a hearing. There is no reason to single out religious, as against non-religious, “secular” (in another widely used sense), or atheist viewpoints.

Indeed, the point of state neutrality is precisely to avoid favoring or disfavoring not just religion positions, but any basic position, religious or non-religious. We can’t favor Christianity over Islam, but neither can we favor religion over non-belief in religion, or vice versa.

One of the ways of demonstrating the superiority of the three-principle model of secularism, over that which is fixated on religion, is that it would never allow one to fail to recognize the regime founded by Atatürk as genuinely secular, making light as it does of the fundamental principles, and even of the separation of state and religious institutions.

This also shows the value of the late-Rawlsian formulation for a secular state. This cleaves very strongly to certain political principles: human rights, equality, the rule of law, democracy. These are the very basis of the state, which must support them. But this political ethic can be and is shared by people of very different basic outlooks—what Rawls (1963) calls “comprehensive views of the good.” A Kantian will justify the rights to life and freedom by pointing to the dignity of rational agency; a Utilitarian will speak of the need to treat beings who can experience joy and suffering in such a way as to maximize the first and minimize the second. A Christian will speak of humans as made in the image of God. They concur on the principles, but differ on the deeper reasons for holding to this ethic. The state must uphold the ethic, but must refrain from favoring any of the deeper reasons.

3

The idea that secularism makes a special case of religion arises from the history of its coming to be in the West (as does, indeed, the name). To put it briefly, there are two important founding contexts for this kind of regime, the United States and France. In the United States case, the whole range of comprehensive views, or deeper reasons, were in the original case variants of (Protestant) Christianity, stretching to a smattering of Deists. Subsequent history has widened the palette of views beyond Christianity, and then beyond religion. But in the original case, the positions between which the state had to be neutral were all religious.

Hence the First Amendment: Congress shall pass no law establishing religion or impeding the free exercise thereof (or something like that).

The word “secularism” didn’t appear in the early decades of American public life. But this was an indication that a basic problem had not yet been faced. Because the First Amendment concerned the separation of church and state, it opened the possibility of giving a place to *religion* which no-one would accept today. Thus in the 1830s, a judge of the Supreme Court could argue that while the First Amendment forbade the identification of the federal government with any church, since all the churches were Christian (and in effect Protestant), one could invoke the principles of Christianity in interpreting the law.

For Judge Joseph Story, the goal of the First Amendment was “to exclude all rivalry among Christian sects,” but nevertheless “Christianity ought to receive encouragement from the state.” Christianity was essential to the state because the belief in “a future state of rewards and punishments” is “indispensable to the administration of justice.” What is more, “it is impossible for those who believe in the truth of Christianity as a divine revelation to doubt that it is a special duty of government to foster and encourage it among the citizens.¹”

This primacy of Christianity was upheld even later in the 19th century. As late as 1890, 37 of the 42 existing states recognized the authority of God in the preambles or in the text of their constitutions. A unanimous judgment of the Supreme Court of 1892 declared that if one wanted to describe “American life as expressed by its laws, its business, its customs and its society, we find everywhere a clear recognition of the same truth ... that this is a Christian nation” (*Church of the Holy Trinity v. United States*, 143 United States 457 at 471).

¹ Andrew Koppelman. “Rawls and Habermas” 36.

In the latter part of the century, resistance to this conception began to build, but a National Reform Association was founded in 1863 with the following goal:

The object of this Society shall be to maintain existing Christian features in the American government ... to secure such an amendment to the Constitution of the United States as will declare the nation's allegiance to Jesus Christ and its acceptance of the moral laws of the Christian religion, and so as to indicate that this is a Christian nation, and place all the Christian laws, institutions, and usages of our government on an undeniable legal basis in the fundamental law of the land.

After 1870, the battle was joined between the supporters of this narrow view, on one hand, and those who wanted a real opening to all other religions and also to non-religion. These included not only Jews, but also Catholics who (rightly) saw the "Christianity" of the NRA as excluding them. It was in this battle that the word "secular" first appears on the American scene as a key term, and very often in its polemical sense of non- or anti-religious.²

In the French case, *laïcité* came about in a struggle against a powerful church. The strong temptation was for the state itself to stand on a moral basis independent from religion. Marcel Gauchet shows how Renouvier laid the ground for the outlook of the Third Republic radicals in their battle against the church. The state has to be "moral et enseignant." It has "charge d'âmes aussi bien que toute Église ou communauté, mais à titre plus universel." Morality is the key criterion. In order not to be under the church, the state must have "une morale indépendante de toute religion,"

² Christian Smith (2003). See also Tisa Wenger, "Rewriting the First Amendment: Competing American Secularisms, 1850–1900."

and enjoy a “suprématie morale” in relation to all religions. The basis of this morality is liberty. In order to hold its own before religion, the morality underlying the state has to be based on more than just utility or feeling; it needs a real “théologie rationnelle,” like that of Kant (Gauchet 1998). The wisdom of Jules Ferry, and later of Aristide Briand and Jean Jaurez, saved France at the time of the Separation (1905) from such a lop-sided regime, but the notion stuck that *laïcité* was all about controlling and managing religion.

If we move, however, beyond such originating contexts and look at the kinds of societies we are now living in in the West, the first feature that strikes us is the wide diversity, not only of religious views, but also of those which involve no religion, not to speak of those which are unclassifiable in this dichotomy. Reasons 1, 2 and 3 above require that we treat all of these even-handedly.

4

The distinction between A and B is not one between actual regimes of secularism. Rather it concerns the way of posing the questions which underlie any regime, or perhaps better, the structure of the argument that one has to make for any measure. In fact regimes justified by A or B can be more or less restrictive or permissive. But the public discussion which defines and sustains them will be different nevertheless.

In terms of the main argument, secularism A usually raises issues of toleration. Religion is seen as something dangerous or potentially damaging; it must thus be contained. Questions of the following form thus easily arise: should we (the government, the majority) impose all the restrictions we might need in order to be quite secure against whatever

dangers religion poses? Or should we nevertheless hold back, be more permissive, for the sake of social peace or harmonious relations, or in order to avoid imposing excessive burdens on those who practise it? We can easily recognize here the shape of the debate in certain societies between extreme secularists and more moderate elements. This kind of issue is clearly one concerning toleration.

In contrast, secularism B plainly supposes a regime of equal rights. The main aim is to defend everyone's right to freedom, to equality, to a hearing. It thus supposes a situation in which we are "beyond toleration," where people will tend to feel that being tolerated is giving them less than they deserve as rights bearers.

The main aim is to defend everyone's right to freedom, to equality, to a hearing

Of course, A and B offer ideal types. In any real situation there may be some elements of each. Thus in a society where B dominates in the public discussion, there may be special issues where questions of toleration arise. For instance, in the United Kingdom a few years ago, a question arose about religiously sponsored adoption agencies. From the standpoint of our present definitions of equality, one could argue that these agencies should be ready to serve all couples, whether of the traditional man-woman kind, or gay. Catholic adoption agencies found this demand hard to accept. Should they be forbidden to operate on their traditional basis? Now this kind of operation was being defined as unacceptable, precisely in a society founded on equal rights. The argument for not forbidding it (which lost) thus was being framed as one of toleration: in spite of the good reasons to forbid, one might let it be, for the sake of harmony, or social peace, or to avoid offending the susceptibilities of certain citizens.

The real world is extremely complex, but there is something to be gained by asking: what should the structure of argument be in general, and in each case?

5

This fixation on religion is complex, and it is bound up with two other features we often find in the debates on secularism: the first is the tendency to define secularism or *laïcité* in terms of some institutional arrangement, rather than starting from the goals I proposed above. And so you hear mantra-type formulae, like “the separation of church and state,” or the necessity of removing religion from public space (“les espaces de la République,” as in the recent French debate). The second follows on from the first, or may easily seem to. If the whole matter is defined by one institutional formula, then one must just determine which arrangement of things best meets this formula, and there is no need to think further. One cannot find oneself in a dilemma, as will easily happen if one is pursuing more than one goal, because here there is just one master formula.

Hence one often hears these mantras employed as argument-stoppers, the ultimate decisive response which annuls all objections. In the United States, people invoke the “Wall of Separation” as the ultimate criterion, and hyper-Republicans in France cite *laïcité* as the final word. (Of course, if one consulted the First Amendment of the United States Constitution one would find two goals mentioned, the rejection of establishment and the assurance of “free exercise.” It is not inconceivable that these could conflict.)

This kind of move amounts, from the standpoint I’m adopting here, to a fetishization of the favored institutional arrangements. Whereas one

should start from the goals, and derive the concrete arrangements from them. It is not that some separation of church and state, some mutual autonomy of governing and religious institutions, will not be an inescapable feature of any secularist regime. And the same goes for the neutrality of the public institutions. They are both indispensable. But what these requirements mean in practice ought to be determined by how we can maximize our three (or four) basic goals.

Take for example the wearing of the *hijab* by Muslim women in public schools, which has been a hot issue in a number of Western democracies. In France, pupils in public schools were famously forbidden the headscarf, seen as a “*signe religieux ostentatoire*,” according to the notorious Loi Stasi of 2004. In certain German *Länder*, pupils can wear it, but not teachers. In the United Kingdom and other countries, there is no general interdict, but the individual schools can decide.

What are the reasons for this variation? Plainly in all these cases, legislators and administrators were trying to balance two goals. One was the maintenance of neutrality in public institutions seen (rightly) as an essential entailment of goal 2: equality between all basic beliefs. The other was goal 1, ensuring the maximum possible religious liberty, or in its most general form, liberty of conscience. Goal 1 seems to push us towards permitting the *hijab* anywhere. But various arguments were made to override this in the French and German cases. For the Germans, what was disturbing was that someone in authority in a public institution should be religiously marked, as it were. In the French case, an attempt was made to cast doubt on the proposition that wearing the *hijab* was a free act. There were dark suggestions that the girls were being forced by their families, or by their male peers, to adopt this dress code. That was one argument which was frequently used, however dubious it might appear in the light of the sociological research carried out among the pupils themselves, which the Stasi Commission largely ignored.

The other main argument was that wearing of the headscarf in school was less an act of piety than a statement of hostility against the republic and its essential institution of *laïcité*. This was the meaning behind the introduction of the concept of “*signe ostentatoire*.” A smaller discrete sign would be no problem argued the Stasi Commission, but these attention-grabbing features of dress were meant to make a highly controversial statement. It was in vain that Muslim women protested that “*le foulard n’est pas un signe*” (“the headscarf is not a sign”).

So on one level, we can see that these different national answers to the same question reflect different takes on how to balance the two main goals of a secular regime. But on another level, the dilemma and its resolution remain hidden under the illusion that there is only one principle here, say, *laïcité* and its corollary of the neutrality of public institutions or spaces (“*les espaces de la République*”). It’s just a matter of applying an essential feature of our republican regime; there is no need or place for choice, or the weighing of different aims.

Perhaps the most pernicious feature of this fetishization is that it tends to hide from view the real dilemmas which we encounter in this realm, and which leap into view once we recognize the plurality of principles at stake.

6

We should be aware that this fetishization reflects a deep feature of life in modern democracies. We can see why as soon as we ponder what is involved in self-government, what is implied in the basic mode of legitimation of states that are founded on popular sovereignty. For the people to be sovereign, it needs to form an entity and have a personality.

The revolutions which ushered in regimes of popular sovereignty transferred the ruling power from a king to a “nation,” or a “people.” In the process, they invented a new kind of collective agency. These terms existed before, but the thing they now indicate, this new kind of agency, was something unprecedented, at least in the immediate context of early modern Europe. Thus the notion “people” could certainly be applied to the ensemble of subjects of the kingdom, or to the non-élite strata of society, but prior to these revolutions it hadn’t indicated an entity which could decide and act together, to which one could attribute a *will*.

But for people to act together, in other words, to deliberate in order to form a common will on which they will act, requires a high degree of common commitment, a sense of common identification. A society of this kind presupposes trust, the basic trust that members and constituent groups have to have, the confidence that they are really part of the process, that they will be listened to and their views taken into account by the others. Without this mutual commitment, this trust will be fatally eroded.

And so we have in the modern age a new kind of collective agency. It is one with which its members identify, typically as the realization/bulwark of their freedom, and/or the locus of their national/cultural expression (or most often, some combination of the two). Of course, in pre-modern societies, too, people often “identified” with the regime, with sacred kings, or hierarchical orders. They were often willing subjects. But in the democratic age we identify as free agents. That is why the notion of popular will plays a crucial role in the legitimating idea.³

³ Rousseau, who laid bare very early the logic of this idea, saw that a democratic sovereign couldn’t just be an “aggregation;” it has to be an “association;” that is, a strong collective agency, a “corps moral et collectif ” with “son unité, son *moi* commun, sa vie et sa volonté.” This last term is the key one, because what gives this body its personality is a “volonté générale.” *Contrat Social* I, 6.

This means that the modern democratic state has generally accepted common purposes, or reference points, the features whereby it can lay claim to being the bulwark of freedom and locus of expression of its citizens. Whether or not these claims are actually founded, the state must be so imagined by its citizens if it is to be legitimate.

So a question can arise for the modern state for which there is no analogue in most pre-modern forms: what/whom is this state for? whose freedom? whose expression? The question seems to make no sense applied to, say, the Austrian or Turkish Empires - unless one answered the “whom for?” question by referring to the Habsburg or Ottoman dynasties; and this would hardly give you their legitimating ideas.

This is the sense in which a modern state has what I want to call a political identity, defined as the generally accepted answer to the “what/whom for?” question. This is distinct from the identities of its members, that is the reference points, many and varied, which for each of these defines what is important in their lives. There had better be some overlap, of course, if these members are to feel strongly identified with the state; but the identities of individuals and constituent groups will generally be richer and more complex, as well as often being quite different from each other.⁴

In other words, a modern democratic state demands a “people” with a strong collective identity. Democracy obliges us to show much more solidarity and much more commitment to one another in our joint political project than was demanded by the hierarchical and authoritarian societies of yesteryear. In the good old days of the Austro-Hungarian Empire, the Polish peasant in Galicia could be altogether oblivious of the Hungarian country squire, the bourgeois of Prague or the Viennese

⁴ I have discussed this relation (Taylor 1996).

worker, without this in the slightest threatening the stability of the state. On the contrary, this condition of things only becomes untenable when ideas about popular government start to circulate. This is the moment when subgroups which will not, or cannot, be bound together, start to demand their own states. This is the era of nationalism, of the breakup of empires.

I have been discussing the political necessity of a strong common identity for modern democratic states in terms of the requirement of forming a people, a deliberative unit. But this is also evident in a number of other ways. Thinkers in the civic humanist tradition, from Aristotle through to Arendt, have noted that free societies require a higher level of commitment and participation than despotic or authoritarian ones. Citizens have to do for themselves, as it were, what otherwise the rulers do for them. But this will only happen if these citizens feel a strong bond of identification with their political community, and hence with those who share with them in this.

From another angle again, because these societies require strong commitment to do the common work, and because a situation in which some carry the burdens of participation and others just enjoy the benefits would be intolerable, free societies require a high level of mutual trust. In other words, they are extremely vulnerable to mistrust on the part of some citizens in relation to others, that the latter are not really assuming their commitments—e.g., that others are not paying their taxes, or are cheating on welfare, or as employers are benefiting from a good labour market without assuming any of the social costs. This kind of mistrust creates extreme tension, and threatens to unravel the whole skein of the mores of commitment which democratic societies need in order to operate. A continuing and constantly renewed mutual commitment is an essential basis for taking the measures needed to renew this trust.

The relationship between nation and state is often considered from a unilateral point of view, as if it were always the nation which sought to provide itself with a state. But there is also the opposite process. In order to remain viable, states sometimes seek to create a feeling of common belonging. This is an important theme in the history of Canada, for example. To form a state, in the democratic era, a society is forced to undertake the difficult and never-to-be-completed task of defining its collective identity.

Free societies require a higher level of commitment and participation than despotic or authoritarian ones

Thus what I have been calling political identity is extremely important in modern democratic states. And this identity is usually defined partly in terms of certain basic principles (democracy, human rights, equality), and partly in terms of their historical, or linguistic, or religious traditions. It is understandable that features of this identity can take on a quasi-sacred status, for to alter or undermine them can seem to threaten the very basis of unity without which a democratic state cannot function.

It is in this context that certain historical institutional arrangements can appear as untouchable. They may appear as an essential part of the basic principles of the regime, but they will also come to be seen as a key component of its historic identity. This is what one sees with *laïcité* as invoked by many French “républicains.” The irony is that in the face of a modern politics of (multicultural) identity, they invoke this principle as a crucial feature of (French) identity. This is unfortunate, but very understandable. It is one illustration of a general truth: that contemporary democracies as they progressively diversify will have to undergo redefinitions of their historical identities, which may be far-reaching and painful.

Thus the crucial move that we see in the modern West from the 17th century, the move that takes us out of the cosmic religious conceptions of order, establishes a new “bottom-up” view of society, as existing for the protection and mutual benefit of its (equal) members. There is a strong normative view attached to this new conception, which I’ve called the “modern moral order” (Taylor 2004). It enshrines basically three principles (on one possible enumeration): 1. the rights and liberties of the members, 2. the equality among them (which has of course been variously interpreted, and has mutated towards more radical conceptions over time), and 3. the principle that rule is based on consent (which has also been defended in more and less radical forms).

These basic norms have been worked out in a host of different philosophical anthropologies, and according to very different concepts of human sociability. They very soon transcended the atomism that narrowed the vision of the early formulators, like Locke and Hobbes. But the basic norms remain and are more or less inseparable from modern liberal democracies.

The rejection of cosmic-religious embedding thus was accomplished by a new conception of “the political,” a new basic norm, which as Lefort suggests involved its own representation of political authority, but one in which the central spot remains paradoxically empty. If the notion of sovereignty is retained, no one person or group can be identified with it.

Democratic societies are organized not necessarily around a “civil religion,” as Rousseau claimed, but certainly around a strong “philosophy of civility,” enshrining the three norms, which in contemporary societies are often expressed as 1. human rights, 2. equality and non-discrimination, and 3. democracy.

But in certain cases, there can be a civil religion: a religious view incorporating and justifying the philosophy of civility. This was arguably so for the young American republic. It was adopting a form which was clearly part of God's providential plan for mankind ("We hold these truths to be self-evident, that men were *created* equal..."). Or it can alternatively be part of a non- or even anti-religious ideology: as with the First French Republic one can even argue that all-englobing views of this kind seem more "natural" to many of our contemporaries. After all, the principles of our civil philosophy seem to call for deeper grounding. If it's very important that we agree on the principles, then surely things are much more stable if we also accept a common grounding. Or so it may appear, and the centuries-long tradition of political life seems to testify to this idea.

Democratic societies are organized around a strong "philosophy of civility," enshrining the three norms, which are often expressed as human rights, equality and non-discrimination, and democracy

For indeed the overlapping consensus between different founding views on a common philosophy of civility is something quite new in history, and relatively untried. It is consequently hazardous. And besides, we often suspect that those with different basic views can't really subscribe to these principles, not the way we do! (Because, as "we" know, "atheists can't have principles;" or as (another) "we" knows, "religions are all against liberty and/or equality.")

The problem is that a really diverse democracy can't revert to a civil religion, or anti-religion, however comforting this might be, without betraying its own principles. We are condemned to live an overlapping consensus.

We have seen how this strongly motivated move to fetishize our historical arrangements can prevent our seeing our secular regime in a more fruitful light, which foregrounds the basic goals we are seeking, and which allows us to recognize and reason about the dilemmas which we face. But this connects to the other main cause of confusion I cited above, our fixation on religion as the problem. In fact, we have moved in many Western countries from an original phase in which secularism was a hard-won achievement warding off some form of religious domination, to a phase of such widespread diversity of basic beliefs, religious and areligious, that only a clear focus on the need to balance freedom of conscience and equality of respect can allow us to take the measure of the situation. Otherwise we risk needlessly limiting the religious freedom of immigrant minorities, on the strength of our historic institutional arrangements, while sending a message to these same minorities that they by no means enjoy equal status with the long-established mainstream.

Think of the argument of the German *Länder* that forbade the headscarf for teachers. These are figures in authority, surely; but is our idea that only unmarked people can be figures in authority, and that those whose religious practices make them stand out in this context don't belong in positions of authority in this society? This is maybe the wrong message to inculcate in children in a rapidly diversifying society.

This is the place to establish the main thesis of this paper—what I have called the convergence of secularism and multiculturalism. It ought to be evident that while the main challenge which called for secularism in the past in many Western countries was that of a dominant religion, today the dominant feature of religion in advanced liberal societies is its diversity and plurality. The formerly dominant religion, generally some denomination of Christianity, has in general a weak hold on its (ex-)

members (or in the case of the United States, the denominations are so many and varied that none can pose a real threat to the freedom of others). And those religious identities which at least appear stronger belong to small minorities. So the call for a religion-focused secularism is close to non-existent. But the need to deal fairly and democratically with a historically unprecedented diversity of religions, cultures and world outlooks, including believing and atheist forms, and all possible variants in-between, is obvious and pressing.

In this context, the tendency which we see in a number of Western countries to focus on and even target new and unfamiliar religions, especially Islam, in the name of secularism appears both ill-founded and dangerous. It seems to me to be a profound mistake to address the problems of integration posed by new and culturally and religiously unfamiliar immigration through the prism of traditional type-A secularism, rather than through that of multiculturalism.

9

But what do I mean by “multiculturalism”? The word easily causes confusion. First, it can be used to describe a situation of fact, one in which there exists in a given society a great diversity of cultures. But the term also indicates an area of policy, covering attempts to deal with this diversity, and here the confusion and cross-purposes seem to be at their most severe and damaging.

I want to use the term in its second sense, as a domain of policies. But as such it suffers from almost terminal discredit in a number of European societies. I remember reading a headline in a German newspaper “*Multikulturalismus ist gescheitert*,” where the explanation was that the politics of *laisser-aller* which recognizes difference with no concern for

integration had brought Europe to a terrible pass, and that now was the time to get tough, and make immigrants conform. In fact, in recent months, the heads of government of the three biggest European countries—Merkel, Cameron and Sarkozy—have announced the end of this pernicious “multiculturalism.” In this discourse of denunciation, Canada is often pilloried as the source of this dangerous and destructive doctrine.

In France, “*Communautarisme*” has been regularly stigmatized as the same kind of encouragement to retreat into closed cultural communities, “*le multiculturalisme*” is seen as an endorsement of philosophy of closure. (Quebeckers often just repeat the French rhetoric on this). Canadians find it hard to recognize themselves in this travesty, because multiculturalism in this country has from the beginning been concerned with integration, putting great emphasis, for instance, on teaching the national languages, English and French.⁵

The need to deal fairly and democratically with a historically unprecedented diversity of religions, cultures and world outlooks is obvious and pressing

But the fact that the word has a different sense in Europe and in Canada is not just a harmless semantic shift. Anti-multicultural rhetoric in Europe reflects a profound misunderstanding of the dynamics of immigration into the rich, liberal democracies of the West. The underlying assumption seems to be that too much positive recognition of cultural differences will encourage a retreat into ghettos, and a refusal to accept the political ethic of liberal democracy itself. As though this rush to closure were the first choice of immigrants themselves, from which they have to be dissuaded

⁵ See Will Kymlicka.

through “tough love.” Up to a point, we can understand why politicians with no great experience of the dynamics of immigrant societies fall into this error, because the tendency among immigrants is always at first to cluster with people of similar origins and background. How else can they find the networks they need to survive and move ahead in the new environment? We also see this clustering in globalized cities, like Bombay, where new arrivals seek out people from the same state or village.

But the major motivation of immigrants into rich democracies is to find new opportunities of work, education, or self-expression, for themselves and especially for their children. If they manage to secure these, they—and even more their children—are happy to integrate into the society. It is only if this hope is frustrated, if the path to more rewarding work and education is blocked, that a sense of alienation and hostility to the receiving society can grow, and may even generate a rejection of the mainstream and its ethic.

Consequently, the European attack on “multiculturalism” often seems to us a classic case of false consciousness, blaming certain phenomena of ghettoization and alienation of immigrants on a foreign ideology, instead of recognizing the home-grown failures to promote integration and combat discrimination.

When I speak of multicultural policies, I am thinking of those of the Canadian-Quebec type (these are not all that different in spite of the different name). These are policies which aim at integration. But what makes them specifically multicultural is that they do not equate integration with assimilation. That is, what immigrants are asked to integrate into is a society which is understood to be in constant evolution, which will in consequence change and develop with the changing composition of its population which new immigration (and also rising generations of the native-born) bring with them.

It is understandable that populations mainly consisting of long-established ethnic groups can react with a certain unease in the face of immigrants of unfamiliar cultures, customs or religions. Will these people change us? How much? Will this change touch our most cherished values? But to rationalize this fear in terms of a threat posed by an alien religion is both a mistake of fact and an error in policy.

It's a mistake of fact, because it attributes to most, or at least sizeable numbers of immigrants the intention to overturn the basic values of Liberal democracy, whereas in fact these values, along with the prosperity they have helped make possible, are what attracted them in the first place. Immigrants mostly want to integrate, to find good jobs, education for their children leading to even better jobs in the next generation. They also appreciate the freedoms they enjoy in their new society which are often less available in their countries of origin.

If the path to more rewarding work and education is blocked, a sense of alienation and hostility to the receiving society can grow

But even for that minority which is hostile to Liberal values, this fear misinterprets the source of this hostility. It is seen to reside in a religion which is homogenized and essentialized, and which is supposed to animate all those who believe in it. Such is, for instance, the picture of "Islam" which one hears in the Islamophobic discourse of the European Right. Very little account is taken of what people who call themselves Muslims actually believe. There is no allowance that Islam is a religion grouping many cultures, that the line between religion and culture is fuzzy and different from case to case; that many people may be "Muslims" in a sense which has little to do with piety and religious obligation; that many of the customs which repel us in certain Muslim societies, like female circumcision or honour killings, have

no sanction in the religious tradition. Above all no allowance is made for the fact that this tradition is very various and contested.

But this global fear of “Islam” is not only mistaken in fact, it is supremely damaging as policy. Granted that we want to avoid and even outlaw certain practices, such as the two I have just mentioned; that we want to inculcate certain values, such as those of male-female equality, it would seem to be much wiser to make allies of all those who can be brought to agree, rather than alienating whole communities by stigmatizing them as the source of a hideous cultural-moral danger. To talk in a register of the high threat of “Islam” and a threatened “Islamization” is not only to invent non-existent dangers, but also to drive a rift between religions and cultures, which cannot but be damaging to a modern democracy.

And when one adds to this that a principal source of hostility to our liberal societies among immigrants comes from their experience of failed integration, the folly of harping on the bogeyman of religion, rather than acting to facilitate integration, and by that stigmatization to make integration still more difficult, becomes more and more evident.

10

Looking at the problems and issues of diversity through the lens of Secularism A, with its negative focus on religion, turns out to be an error of major proportions. To the extent that we want to grasp these problems in terms of secularism, it should rather be secularism B, that which is diversity-oriented. But to be truly diversity-oriented is to focus on the issues of multiculturalism. And in that sense, we can say that secularism in our Western societies needs to take a multicultural turn, which is to say that the two need to converge. That is the thesis which I have been defending here.

BIBLIOGRAPHY

- Gauchet, Marcel. 1998. *La Religion dans la Démocratie*. Paris: Gallimard, 47–50.
- Rawls, John. 1993. *Political liberalism*. New York: Columbia University Press.
- Rousseau, Jean-Jacques. *Du Contrat Social* I, 6.
- Smith, Christian. 2003. *The Secular Revolution*. Berkeley: University of California Press.
- Taylor, Charles. 1996. "Les Sources de l'identité moderne." In *Les Frontières de l'Identité: Modernité et postmodernisme au Québec*, edited by Mikhaël Elbaz, Andrée Fortin, and Guy Laforest, 347–364. Sainte-Foy: Presses de l'Université Laval.
- Taylor, Charles. 2004. *Modern Social Imaginaries*. Durham: Duke University Press.

>> We are seeing an evolution in our concept of secularism. In former times, secularist regimes were about controlling religion; now they are more and more concerned with managing diversity in a fair and democratic manner.

>> This change reflects the transformation of our populations in Western democracies. International migration has resulted in a much greater religious and cultural diversity. Where formerly, say, there were Catholics, Protestants and Jews, now we find also Hindus, Buddhists, Muslims and many others. Naturally the new secularism, mainly concerned with diversity, becomes involved in issues of multiculturalism.

CHARLES TAYLOR

Northwestern University, Chicago

IMMIGRATION AND CITIZENSHIP¹

Joseph H. Carens

What are the ethical issues raised by immigration? How does immigration affect our understanding of democracy and citizenship? I explore these questions in the context of three presuppositions. First, I am concerned primarily with immigration into the rich democratic states of Europe and North America. I leave open the question of the extent to which this analysis extends to other states.

Second, I presuppose a commitment to democratic principles. That requires an interpretation of democratic principles, and my interpretation can be contested, but I do not pretend that my arguments will have any purchase for those who reject democratic principles altogether. I use the term “democratic principles” in a very general sense to refer to the broad moral commitments that undergird and justify contemporary political institutions and policies throughout North America and Europe—things like the ideas that all human beings are of equal moral worth, that disagreements should normally be resolved through the principle of majority rule, that we have a duty to respect the rights and freedoms of individuals, that legitimate government depends upon the consent of the

¹ This chapter draws upon ideas developed more fully in Carens 1987, 1992, 2000a, 2000b, 2002, 2004, 2007, 2008a, 2008b, 2010.

governed, that all citizens should be equal under the law, that coercion should only be exercised in accordance with the rule of law, that people should not be subject to discrimination on the basis of characteristics like race, religion, or gender, that we should respect norms like fairness and reciprocity in our policies, and so on. These ideas can be interpreted in many different ways, and they can even conflict with one another. Nevertheless, on a wide range of topics, like the question of whether it is morally acceptable to force someone to convert from one religion to another, there is no serious disagreement among those who think of themselves as democrats. Many of the questions raised by immigration are interconnected, and a commitment to democratic principles greatly constrains the kinds of answers we can offer to these questions.

Third, for most of my analysis, I am simply going to assume that states normally have a moral right to exercise considerable discretionary control over immigration. I will call this the conventional view. As we will see, there is still much that can be said about the ethics of immigration within the constraints of the conventional view. At the end of the chapter, I will step back and raise some questions about the conventional view.

I take up the following topics: access to citizenship; inclusion; residents; temporary workers; irregular migrants; non-discrimination in admissions; family reunification; refugees; open borders. I begin, however, with an objection that would render the rest of the discussion pointless if it were sound.

SOVEREIGNTY AND SELF-DETERMINATION

Some people think that it is a mistake even to talk about the ethics of immigration. Immigration and citizenship should be seen as political issues, not moral ones, they say. (Hailbronner 1989). On this view, respect

for state sovereignty and democratic self-determination preclude any moral assessments of a state's immigration and citizenship policies.

This sort of attempt to shield immigration and citizenship policies from moral scrutiny is misguided. Consider some examples of past policies that almost everyone today would regard as unjust: the Chinese Exclusion Act of the late 19th century that barred people of Chinese descent from naturalization in the United States; the denaturalization policies adopted in the 1930s by many European states (including Germany's infamous Nuremberg Laws); Canadian and Australian policies of excluding potential immigrants on the basis of race.

To criticize such policies as morally wrong does not entail a rejection of state sovereignty or democratic self-determination. We should distinguish the question of who ought to have the authority to determine a policy from the question of whether a given policy is morally acceptable. We can think that an agent has the moral right to make a decision and still think that the decision itself is morally wrong. That applies just as much to a collective agent like a democratic state as it does to individuals. Moral criticism of the Chinese Exclusion Act or the Nuremberg Laws or the White Australia Policy does not imply that some other state should have intervened to change those policies or that there should be an overarching authority to compel states to act morally.

The claim that something is a human right or a moral obligation says nothing about how that right or obligation is to be enforced. In fact, in the world today where human rights have come to play an important role, most human rights claims are enforced by states against themselves. That is, states themselves are expected to (and often do) limit their own actions and policies in accordance with human rights norms that they recognize and respect. The very idea of constitutional democracy is built upon the notion of self-limiting government, i.e., that states have the

capacity to restrict the exercise of their power in accordance with their norms and values. That is the framework within which I am pursuing the discussion of immigration and citizenship in this chapter.

ACCESS TO CITIZENSHIP

Who should be granted citizenship and why? I propose the following principles. Anyone born in a state with a reasonable prospect of living there for an extended period should acquire citizenship at birth. Anyone raised in a state for an extended part of her formative years should acquire citizenship automatically over time (or, at the least, acquire an absolute and unqualified right to citizenship). Anyone who comes to a society as an adult immigrant and lives there legally for an extended period ought to acquire a legal right to naturalization—ideally with no further requirements but at most upon meeting certain modest standards regarding language acquisition and knowledge of the receiving society. Finally, people should normally be allowed to acquire dual or even multiple citizenships where they have a legitimate connection to the states in question. A democratic state should not make renunciation of other citizenships a requirement for access to its own citizenship whether its citizenship is acquired at birth or through naturalization.

To understand why settled immigrants and their descendants have a moral right to citizenship, we have to think about why the descendants of citizens have a moral claim to citizenship. Consider what we might call the normal case: children who are born to parents who are citizens of the state where their children are born and who live in that state as well. In other words, the baby's parents are resident citizens. Every democratic state grants citizenship automatically to such children at birth. It may seem intuitively obvious that this practice makes moral sense, but I want to make the underlying rationale explicit, and that rationale is not self-

evident. Birthright citizenship is not a natural phenomenon. It is a political practice, even when it concerns the children of resident citizens. What justifies this practice from a democratic perspective?

We are embodied creatures. Most of our activities take place within some physical space. In the modern world, the physical spaces in which people live are organized politically primarily as territories governed by states. The state can and should recognize even a baby as a person and a bearer of rights. Beyond that, the state where she lives inevitably structures, secures and promotes her relationships with other human beings, including her family, in various ways.

The very idea of constitutional democracy is built upon the notion of self-limiting government, i.e., that states have the capacity to restrict the exercise of their power in accordance with their norms and values

When a baby is born to parents who are resident citizens, it is reasonable to expect that she will grow up in that state and receive her social formation there and that her life chances and choices will be affected in central ways by that state's laws and policies. She cannot exercise political agency at birth, but she will be able to do so as an adult. If she is to play that role properly, she should see herself prospectively in it as she is growing up. She needs to know that she is entitled to a voice in the community where she lives and that her voice will matter. In addition, political communities are also an important source of identity for many, perhaps most, people in the modern world. A baby born to resident citizens is likely to develop a strong sense of identification with the political community in which she lives and in which her parents are citizens. She is likely to see herself and be seen by others as someone

who belongs in that community. All of these circumstances shape her relationship with the state where she is born from the outset. They give her a fundamental interest in being recognized immediately as a member of the political community. Granting her citizenship at birth is a way of recognizing that relationship and giving it legal backing.

Most of the same considerations apply to a child of immigrants who is born in the state where her parents have settled. She, too, is likely to grow up in the state, to receive her social formation there, and to have her life chances and choices deeply affected by the state's policies. If these are reasons why the children of resident citizens should get citizenship at birth, they are also reasons why the children of immigrants should get citizenship at birth. So, too, with the cultivation of political agency. The child of immigrants should be taught from the beginning that she is entitled to a voice in the community where she lives and that her voice will matter. And so, too, with political identity. Like the child of resident citizens, the child of immigrants has a deep interest in seeing herself and in being seen by others as someone who belongs in the political community in which she lives.

Settled immigrants may leave, returning to their country of origin or going elsewhere and taking their children with them, but that is also true of resident citizens. This possibility does not provide a good enough reason to treat the child's membership in the political community as a contingent matter.

Finally, what about the issue of dual citizenship? Does the fact that the children of immigrants get their parents' citizenship at birth provide a democratic state any grounds for denying the children citizenship in the state where they are born and where their parents live?

No, for two reasons. First, citizenship in the country of origin of one's parents is not an adequate substitute for citizenship in the country where

one lives. The most important civic relationship a person has is the one with the state where she lives. Second, dual citizenship is now widespread, unavoidable, and accepted for the children of citizens because more and more children have parents with different nationalities and inherit citizenship status from each of them. It is no longer plausible to claim that this creates any serious practical or principled problems. If dual citizenship is acceptable for the children of citizens, it should be acceptable for the children of immigrants as well.

In sum, the most important circumstances shaping a child's relationship with the state from the outset are the same for the child of immigrants as they are for the child of resident citizens. So, the child of immigrants has the same sort of fundamental interest in being recognized immediately and permanently as a member of the political community.

Now consider immigrants who arrive as young children. From both a sociological and a moral perspective, these children are very much like the children born in the state to immigrant parents. They belong, and that belonging should be recognized by making them citizens.

All the reasons why children should get citizenship as a birthright if they are born in a state after their parents have settled there are also reasons why children who settle in a state at a young age should acquire that state's citizenship. The state where an immigrant child lives profoundly shapes her socialization, her education, her life chances, her identity, and her opportunities for political agency. Her possession of citizenship in another state is not a good reason for denying her citizenship in the state where she lives, and for reasons we have just seen in the discussion of dual citizenship there is no good reason to require her to give up any other citizenship as a condition of gaining citizenship in the place where she lives. The state where she lives is her home. She has a profound interest in seeing herself and in being seen by others as a member of that

political community, and the state has a duty to respect that interest because it has admitted her. The state's grant of citizenship to immigrants who arrive as young children should be unconditional and automatic, just as birthright citizenship is for the children of resident citizens and settled immigrants.

The most important circumstances shaping a child's relationship with the state from the outset are the same for the child of immigrants as they are for the child of resident citizens

Finally, what about immigrants who arrive as adults? The moral claims that adult immigrants have to citizenship rest on two distinct but related foundations: social membership and democratic legitimacy (Baubock 1994; Rubio-Marin 2000). Their moral claims to citizenship on the basis of social membership are similar in many respects to the moral claims that their children have, namely that their lives are deeply affected by and tied to the state in which they live and others who live in that state. Having the legal status of citizenship in the state where they live is the only way that their membership can be properly recognized and their interests properly protected. As we have seen before, there are no good reasons for the state to require them to renounce their previous citizenship as a condition of acquiring a new one in the place where they live.

Immigrants who arrive in a state as adults have received their social formation elsewhere. For that reason, they do not have quite as obvious a claim to be members of the community as their children who grow up within the state and may even be born there. Nevertheless, living in a community also makes people members. As adult immigrants settle into their new home, they become involved in a dense network of social associations. They acquire interests and identities that are tied up with

other members of the society. Their choices and life chances, like those of their children, become shaped by the state's laws and policies. The longer they live there, the stronger their claims to social membership become. At some point, a threshold is passed. They have been there long enough to ensure that they simply are members of the community with a strong moral claim to have that membership officially recognized by the state by its granting of citizenship, or at least a right to citizenship if they want it.

The principles of democratic legitimacy give rise to a second basis for adult immigrants to assert a moral claim to citizenship. It is a fundamental democratic principle that everyone should be able to participate in shaping the laws by which she is to be governed and in choosing the representatives who actually make the laws, once she has reached an age where she is able to exercise independent agency. Full voting rights and the right to seek high public office are normally reserved for citizens, and I will simply assume that practice in this chapter. Therefore, to meet the requirements of democratic legitimacy, every adult who lives in a democratic political community on an ongoing basis should be a citizen, or, at the least, should have the right to become a citizen if she chooses to do so. Prior to this point, I have not emphasized the democratic legitimacy argument because I have been talking about the citizenship claims of young children who are not old enough to vote or to participate formally in politics, though they have the same sort of claim prospectively, as it were, and the democratic legitimacy argument would apply to them if they reached adulthood without receiving citizenship.

INCLUSION

Even if immigrants and their descendants have appropriate access to the legal status of citizenship, they can still be marginalized economically, socially, and politically. If citizens of immigrant origin are excluded from

the economic and educational opportunities that others enjoy, if they are viewed with suspicion and hostility by their fellow citizens, if their concerns are ignored and their voices not heard in political life, they are not really included in the political community. They may be citizens in a formal sense but they are not really citizens in a fuller, more meaningful sense of the term. They are not likely to see themselves or be seen by others as genuine members of the community. In many important ways, they will not belong.

That is clearly wrong from a democratic perspective. No one thinks that democratic equality requires citizens to be equal in every respect, but the democratic ideal of equal citizenship clearly entails much more than the formal equality of equal legal rights. It requires a commitment to some sort of genuine equality of opportunity in economic life and in education, to freedom from domination in social and political life, to an ethos of mutual respect, compromise and fairness. Democratic theorists have long worried about the tyranny of majorities over minorities in democracies. Citizens of immigrant origin are an important vulnerable minority. So, democratic principles require the substantive, not merely formal, inclusion of citizens of immigrant origin.

What does substantive inclusion entail? Social scientists who study immigration empirically spend a lot of time trying to figure out what makes for the successful inclusion of immigrants, and especially what sorts of public policies can aid in this process. In conducting these studies, they usually deploy, implicitly or explicitly, a normative standard of proportional equality. That is, they compare how well immigrants and their descendants do on various indicators of well-being and success in economic, social, and political life (e.g., education, economic achievement, social acceptance, political participation) with how well the rest of the population is doing. The general expectation (again often implicit) is that immigrants themselves should not lag too far behind the rest of the

population on these indices and that the descendants of immigrants should do pretty much as well as those whose ancestors have been here longer. If this expectation is not met, then there is a puzzle that needs to be explained through social scientific analysis and perhaps a problem that needs to be addressed through social policy.

Explaining why citizens of immigrant origin are not fully included and what policies might remedy that failure are tasks for empirical researchers. What political philosophers can do is show how democratic principles guide and limit the policies that states may use to promote the inclusion of citizens of immigrant origin. One important constraint is that democratic states cannot demand social and cultural assimilation as a prerequisite for inclusion. For example, everyone recognizes that a democratic state cannot require its citizens to adopt the religious views of the majority even if religious differences are a source of social friction. In a contemporary democracy, people have to live with profound differences and build a shared political community in a context of social and cultural pluralism.

The deep connection between democratic principles and respect for difference is one reason why pronouncements about the “death of multiculturalism” seem so inappropriate from an ethical perspective. Multiculturalism is a term that can be used in many different ways, but often the social, cultural and religious diversity that people attribute to multiculturalism is simply the unavoidable consequence of respecting the individual rights and freedoms that democratic states are supposed to provide to all their members (such as rights to religious freedom and rights to live one’s life as one chooses so long as one is not harming others). It is dismaying to see how often contemporary democratic states are willing to override their own principles out of fear and anxiety about differences of culture and identity, as for example in the banning of various forms of religious dress and religious architecture.

Democratic justice requires even more than respect for individual rights, however. To achieve justice it is necessary to pay attention to the ways in which laws and practices may implicitly privilege some over others, and to be willing to treat all citizens fairly, even those who are a minority. That will sometimes entail accommodations of various sorts for citizens of immigrant origin and even public recognition of and support for their culture and their identity. It also involves the creation of a public culture in which citizens of immigrant origin are recognized as full members of society and treated with respect. What is at issue here is the way people behave, especially public officials but also ordinary citizens. The value of legal citizenship and formal equality is greatly reduced if the representatives of the state and the rest of the citizenry treat immigrants as outsiders who do not really belong and who have somehow acquired a status that is undeserved.

Immigrants bring change with them. That is inevitable. It is not grounds for constructing the immigrants as a threat or a problem. What is needed instead is some sort of mutual adaptation between citizens of immigrant origin and the majority in the state where the immigrants have settled.

This mutual adaptation will inevitably be asymmetrical. Citizens with deep roots in the society are always in the majority, and that matters in a democracy. They have a legitimate interest in maintaining most of the established institutions and practices. Formal and informal norms are pervasive in any complex modern society. They are often an important kind of collective good, making it possible for people to coordinate their activities without direct supervision or instruction. Most of these formal and informal norms do not conflict with individual rights and freedoms or with the legitimate claims of minorities. To a considerable extent, it is reasonable to expect that citizens of immigrant origin will learn how things work in the receiving society and that they will conform to these formal and informal norms. This applies even more to their children. The

children of immigrants grow up in the state to which their parents have moved. As we have seen, they should grow up as citizens, and, if the educational system functions properly, they should acquire all of the social tools required to function effectively in the society, including mastery of the official language and many other social capacities as well. This does not mean, however, that the children of immigrants can be expected to be like the children of the majority in every respect or that the immigrants themselves have to conform to every established practice.

The democratic ideal of equal citizenship requires a commitment to some sort of genuine equality of opportunity in economic life and in education, to freedom from domination in social and political life

It is not reasonable to insist that nothing change as a result of immigration. The distinctive experiences, values and concerns of the immigrants are relevant to an evaluation of the society's formal and informal norms. The way things are done in a society may reflect unconscious and unnecessary elements that come to light only when they are confronted by people who object to them. If citizens of immigrant origin have reasons for wanting things to be done differently, they deserve a hearing and their interests must be considered. Sometimes practices can be changed without any real loss to anyone else beyond adjustment to the change. Sometimes it may be appropriate to leave existing rules or practices in place and provide exemptions for immigrants. Instead of pretending that the social order is culturally neutral or that it is acceptable to expect citizens of immigrant origin simply to conform to the majority, what is needed is what I have called elsewhere a conception of justice as even-handedness, i.e., a sensitive balancing of considerations that takes the interests of citizens of immigrant origin seriously and gives them weight without assuming that those interests will always prevail (Carens 2000a).

LEGAL RESIDENTS

So far I have focused on access to citizenship and on the inclusion of people of immigrant origin who have become citizens. How should immigrants be treated before they have been settled long enough to become entitled to citizenship?

Let's start with legal residents, i.e., immigrants who have been admitted on an ongoing basis but who have not yet acquired citizenship (whether they are eligible for it or not). Democratic justice greatly constrains the legal distinctions that can be drawn between citizens and residents. Once people have been settled for an extended period, they are morally entitled to the same civil, economic, and social rights as citizens. In a democratic state, these immigrants should enjoy all the rights that citizens enjoy, except perhaps for the right to vote, the right to hold high public office, and the right to hold high policy-making positions.

This is not such a radical claim as it might sound. With a few significant qualifications, permanent residents do generally enjoy these legal rights in Europe and North America. But why should they?

One answer is that democratic states have an obligation to protect the basic human rights of everyone subject to their jurisdiction. The claim is true as far as it goes, but it does not go far enough. Even tourists and visitors are entitled to protection of their basic human rights, but immigrants with legal residence status have many rights that visitors do not possess. Indeed if we were to place visitors, residents, and citizens as three categories along a continuum as holders of legal rights, the biggest gap would not be between citizens and residents but between residents and visitors, i.e., not between citizens and non-citizens but between two different kinds of non-citizens. Most of the legal rights created by modern democratic states are neither rights granted to everyone present nor

rights possessed only by citizens. Instead, they are rights possessed by both citizens and permanent residents. Let's see why that makes moral sense.

What is it that residents and citizens have in common that is morally significant and makes it justifiable to give them legal rights that are not given to visitors? The answer is obvious. They live in the society. Living there gives them interests that visitors do not have, interests that deserve legal recognition and protection. Living there makes them members of civil society. Someone might object that this is circular, that it begs the question of why the visitors are only visitors. Perhaps they would like to become residents too and are not being allowed to do so. But that is an issue I will consider later. For the moment I am just assuming the legitimacy of the state's right to decide which non-citizens will become residents and asking how states should treat those to whom it has granted resident status.

Let's start with some of the areas where residents do generally enjoy the same rights as citizens and see why this arrangement makes moral sense. Consider first the right to seek employment. In any society in which acquiring the means to live depends upon gainful employment, denying access to work to people who reside there is like denying access to life itself. It would be contradictory to allow people to live in a society while denying them the means to do so. For the same reasons, to deny residents the kinds of labour rights that other workers enjoy (e.g., the protections provided by health and safety legislation, the right to join unions, etc.) would be to place them at an unfair disadvantage. I know of no one advocating such a course.

If we consider social insurance programs financed by compulsory deductions from workers' pay (old age pensions, unemployment compensation, compensation for workplace accidents), we can see that it

would hardly be reasonable to require people to pay into these programs and then to deny them access to the benefits they provide. The principle of reciprocity on which such programs are based requires that those who pay should be eligible. (Some programs of this sort have minimum periods of employment that must be fulfilled before one can collect, and, of course, it is appropriate to impose the same limits on non-citizens—but not longer ones.) Again, I don't think this principle is seriously contested even if it is sometimes breached in practice.

For the vast majority of the rights of membership there is no plausible case to be made for distinguishing between residents and citizens, apart from political rights

Finally, consider access to general social programs such as publicly-funded education and health care provided to the general population. Of course, different states provide different levels of benefits, but one rarely hears arguments for treating legal permanent residents differently from citizens with regard to these programs. The reason why seems obvious. Residents also pay the taxes that fund these programs. Again, an elementary sense of reciprocity makes it clear that excluding residents from the benefits of such general public expenditure would be unjust.

So, for the vast majority of the rights of membership there is no plausible case to be made for distinguishing between residents and citizens, apart from political rights. The debates come at the margins, mainly around security of residence, access to public employment and access to redistributive social programs. I do not have the space to develop the arguments here, but I have argued elsewhere that during the early stages of settlement it is permissible to limit rights to redistributive benefits and protection against deportation, but the longer people stay in a society, the

stronger their moral claims become (Carens 2002). After a while they pass a threshold that entitles them to virtually the same legal status as citizens, whether they acquire formal citizenship status or not. Restrictions on access to public employment are a form of illegitimate discrimination, except for policy-making or security positions.

TEMPORARY WORKERS

May democratic states admit people to work but only for a limited period? If so, what legal rights should these temporary workers have? In my view, democratic states may admit people to work while limiting the duration of their stay and their access to redistributive social programs, but other sorts of restrictions are morally problematic.

In the previous section I asserted that a person's moral claims in a society grow over time. That applies to residence as well. The longer someone stays, the stronger her claim to remain becomes. One implication of that principle is that those who are present for a limited period do not establish a strong claim to remain. So, if a democratic state admits someone to work on a temporary visa and that person has no other moral claim to remain, the state may reasonably require her to leave when her visa expires. However, if the state renews a temporary visa repeatedly, the state is eventually obliged to convert the temporary visa into a permanent one. That follows from the idea that the moral claim to stay grows over time. The European Union has recognized this principle in its recent directive recommending that third country nationals (that is, people from outside the EU) be granted a right of permanent residence if they have been legally residing in an EU state for five years (European Council, 2003).

The arguments for granting temporary workers most of the legal rights that citizens and residents possess are based on the commitment of

democratic states to general human rights, to the principle of reciprocity, and to whatever standards a state establishes as the minimum morally acceptable conditions of employment within its jurisdiction.

As I noted previously, even visitors and tourists enjoy general human rights, such as security of person and property. So, I will just assume that temporary migrant workers are entitled to those rights as well.

What about other rights? Let's distinguish among three general areas: working conditions (which include things like health and safety regulations and laws regarding minimum wages, overtime pay, and paid holidays and vacations), social programs directly tied to workforce participation (which include things like unemployment compensation and compulsory pension plans), and other social programs (which include income-support programs, health care, education, recreation, and anything else the state spends money on for the benefit of the domestic population).

Temporary migrants should enjoy the same rights with respect to working conditions as citizens and permanent residents. The purpose of these rules and regulations is to set the minimum acceptable working conditions within a particular democratic community based on the understanding of what is acceptable that is generated by the community's internal democratic processes. Temporary migrants are working within the state's jurisdiction. Therefore, the policies that regulate working conditions for citizens and permanent residents should apply to them as well.

What about programs tied to workforce participation? When programs are designed as contributory schemes, the injustice of excluding temporary migrant workers from them is especially obvious. It is blatantly unfair to require people to pay into an insurance scheme if they are not eligible for

the benefits. This violates an elementary principle of reciprocity. But the basic principle of including temporary migrant workers in the programs or compensating them for their exclusion does not rest solely on the method by which the program is financed. As long as the rationale of the program is intimately linked to workforce participation, it should include all workers, temporary migrants or not.

Finally, every state provides a wide range of services to those within its territory, including such things as police and fire protection, public education, libraries, recreational facilities, and so on. There is no justification for excluding temporary workers from most of these programs. In practice, the programs from which temporary workers are most likely to be excluded and the ones where the normative justification of the exclusion seem most plausible are programs that are financed by some general tax and that have as their primary goal the transfer of resources from better-off members of the community to worse-off ones. I have in mind things like income-support programs and other programs aimed at poorer members of society such as social housing. I am not suggesting that it would be wrong to include temporary workers in such programs. On the contrary, I think it would be admirable to include them, and some states do. I am simply saying that it is morally permissible to exclude temporary workers from programs that have redistribution as their primary goal. If such programs are not based directly on a contributory principle, excluding recent arrivals from them does not violate the principle of reciprocity. Since the goal of the programs is to support needy members of the community and since the claim to full membership is something that is only gradually acquired, exclusion of recent arrivals does not seem unjust (although it may be ungenerous). Of course, these programs are funded out of general tax revenues and temporary workers also pay taxes, but their claim to participate in a program based on redistributive taxation—taking from better-off members of the community to benefit the less well-off—is not as powerful

as their claim to participate in a program whose benefits are directly tied to the worker's contributions. The moral claims of temporary workers to be able to participate in redistributive programs grow over time, but, as we have seen, so does their claim to permanent, full membership.

IRREGULAR MIGRANTS

Now consider immigrants who have settled without authorization, whom I will call irregular migrants. What legal rights, if any, should they have?

Given my initial assumption of the state's right to control immigration, it follows that states are morally entitled to deport irregular migrants if they apprehend them. Nevertheless, I want to claim that irregular migrants should enjoy most of the civil, economic, and social rights that other workers enjoy, and that states should normally create a firewall between the enforcement of immigration laws on the one hand and the protection of the legal rights of irregular migrants on the other so that these rights can be really effective. Furthermore, I argue that over time irregular migrants acquire a moral right to remain and to have their status regularized.

At first blush, it may appear puzzling to suggest that irregular migrants should have any legal rights. Since they are violating the state's law by settling and working without authorization, why should the state be obliged to grant them any legal rights at all? A moment's reflection, however, makes us aware that irregular migrants are entitled to at least some legal rights. Unlike medieval regimes, modern democratic states do not make criminals into outlaws—people entirely outside the pale of the law's protection. Irregular migrants are clearly entitled to the protection of their basic human rights. The right to security of one's person and property is a good example. The police are supposed to protect even irregular migrants from being robbed and killed. People do not forfeit their

right to be secure in their persons and their possessions simply in virtue of being present without authorization. The right to a fair trial and the right to emergency health care are other examples.

The fact that people are legally entitled to certain rights does not mean that they actually are able to make use of those rights. It is a familiar point that irregular migrants are so worried about coming to the attention of the authorities that they are often reluctant to pursue legal protections and remedies to which they are entitled, even when their most basic human rights are at stake. This creates a serious normative problem for democratic states. It makes no moral sense to provide people with purely formal legal rights under conditions that make it impossible for people to exercise those rights effectively.

Irregular migrants should enjoy most of the civil, economic, and social rights that other workers enjoy

What is to be done? There is at least a partial solution to this problem. States can and should build a firewall between immigration law enforcement on the one hand and the protection of basic human rights on the other. We ought to establish as a firm legal principle that no information gathered by those responsible for protecting and realizing basic human rights can be used for immigration enforcement purposes. We ought to guarantee that people will be able to pursue their basic rights without exposing themselves to apprehension and deportation. For example, if irregular migrants are victims of a crime or witnesses to one, they should be able to go to the police, report the crime and serve as witnesses without fear that this will increase the chances of their being apprehended and deported by immigration officials. If they need emergency health care, they should be able to seek help without worrying

that the hospital will disclose their identity to those responsible for enforcing immigration laws.

I cannot develop the details here, but roughly the same pattern of argument applies to many other areas of legal rights. The children of irregular migrants should be entitled to a free and compulsory education in the public schools (because that sort of education should be regarded as a basic human right for anyone living within a society). There should be a firewall between the provision of these educational services and the enforcement of immigration laws. Irregular migrants should be legally entitled to their pay if they work and should be legally entitled to the same rights and protections with regard to working conditions as other workers, because these rights and protections reflect a particular democratic state's minimum standards for acceptable working conditions within its territory. Again, these rights can only be effective if they are backed up by a firewall with respect to immigration enforcement.

States can and should build a firewall between immigration law enforcement on the one hand and the protection of basic human rights on the other

As the list of rights grows, one might ask whether there are any rights that authorized immigrants have to which the unauthorized immigrants are not entitled. Given the initial assumption about the state's right to control its borders, I would say that irregular migrants are not normally morally entitled to receive the benefits of income-support programs, and, of course, they are not morally entitled to stay. Even these constraints are not absolute, however. The longer one stays in a society, the stronger one's claim to membership. That applies even in the case of those who have settled without authorization. When people settle in a country they form connections and attachments that generate strong

moral claims over time. After a while, the conditions of admission become irrelevant.

This recognition of the moral importance of the length of stay, even if unauthorized, is reflected in the practices of many states, both in the granting of general amnesties to unauthorized residents which are almost always limited to those who have already been in the country for an extended period and in the common practice of allowing for exemptions from the normal rules of deportation on compassionate and humanitarian grounds, which in turn are almost always linked to long residence in the country. I do not mean to suggest that everyone accepts this, however. The law almost never recognizes an individual right of unauthorized residents to stay (except occasionally with respect to those who have been present as children). Moreover, many would object to amnesties (whether individual or collective) on the grounds that they reward lawbreaking and encourage more unauthorized immigration. Nevertheless, in my view, long-term settlement does carry moral weight and eventually even provides grounds for a moral right to stay that ought to be recognized in law.

NON-DISCRIMINATION IN ADMISSIONS

Let me turn now to questions about who should get in. In what ways, if any, is the state's right to control admissions morally constrained? As with citizenship, people sometimes say that control over immigration is a fundamental feature of sovereignty and self-determination and so cannot be subject to any normative constraints external to the community's will. But no one really believes this if pressed. There is no moral *carte blanche*. One obvious constraint on immigration policies is the principle of non-discrimination. No one today would claim that a democratic state could legitimately bar African and Asian immigrants just because of their racial

or ethnic origins, though this is precisely what Canada, the United States, and Australia did quite openly in the past. To exclude immigrants on the basis of race or ethnicity is a fundamental violation of democratic principles. The same principle applies to religion. There is no possible justification within a democratic framework for excluding people because of their religion. Today, of course, it is Islam that is the focus of exclusion, though religion is often intertwined here with race and ethnicity. Many people in Europe and North America are afraid of Muslims (as in years past they were afraid of Catholics and Jews). Western states know that open discrimination against Muslims is incompatible with their principles, and that is precisely why, if they do seek to exclude Muslim immigrants, they usually try to conceal what they are doing when they restrict such entrants. They do not openly announce these exclusions (as they did in their racially exclusive policies in the past), but find other pretexts and justifications—couched in neutral terms but designed to have particular effects. As the old saying goes, hypocrisy is the tribute that vice pays to virtue.

In addition to not discriminating, there are at least two other important moral limits on the state's right to control immigration and to admit or exclude whomever it wants: family reunification and refugees.

FAMILY REUNIFICATION

Democratic states are morally obliged to admit the immediate family members of citizens and residents. It is worth noting first that family reunification is primarily about the moral claims of insiders, not outsiders. The state's obligation to admit immediate family members is derived not so much from the claims of those seeking to enter as the claims of those they seek to join: citizens or residents or others who have been admitted for an extended period. It is not a question here of a cosmopolitan challenge to the

state's control over admissions but rather of the responsibilities of democratic states towards those whom they govern. Democratic states have an obligation to take the vital interests of their own members into account. The whole notion that individual rights set limits to what may be done in the name of the collective rests upon this supposition.

People have a deep and vital interest in being able to live with their immediate family members. No one disputes this. But why must this interest in family life be met by admitting the family members? Could it not be satisfied just as well by the departure of the family member(s) present to join those abroad (assuming that the state where the other family members reside would permit this)? Why is the state obliged to shape its admissions policies to suit the locational preferences of individuals?

The answer to this question is that people also have a deep and vital interest in being able to continue living in a society where they have settled and sunk roots. Of course, people sometimes have good reasons of their own to leave and sometimes face circumstances that require them to make painful choices. (If two people from different countries fall in love, they cannot both live in their home countries and live together.) So, people must be free to leave. But no one should be forced by the state to choose between home and family. Whatever the state's general interest in controlling immigration, that interest cannot plausibly be construed to require a complete ban on the admission of non-citizens, and cannot normally be sufficient to justify restrictions on family reunification. I add the qualifier "normally" because even basic rights are rarely absolute, and the right to family reunification cannot be conceived as absolute. States do not have an obligation to admit people whom they have good reason to regard as a threat to national security, for example, even if they are family members. But the right of people to live with their family clearly sets a moral limit to the state's right simply to set its admissions policy as it

chooses. Some special justification is needed to override the claim to family reunification, not merely the usual calculation of state interests.

Most democratic states acknowledge this principle, and that is a major reason why there has been a significant continuing flow of immigrants into Europe even after European states stopped recruiting guest workers. We now see some European states trying to restrict this right at the margins (e.g., Denmark's raising of the marriage age, the French debate over DNA tests, the Dutch insistence that potential family immigrants pass a test before admission). These restrictions deserve criticism because they conflict with the principle of family reunification, but so far no European state has directly attacked the principle itself, nor could any state do so without abandoning its commitment to democratic principles and human rights.

The right of people to live with their family clearly sets a moral limit to the state's right simply to set its admissions policy as it chooses

Finally, the concept of family reunification raises interesting questions about cultural variation in the definition of family. I cannot pursue those issues here, but let me simply assert the proposition that justice requires that democratic states admit same-sex partners for purposes of family reunification. Some states already do this.

REFUGEES

Now consider refugees. For these purposes, let's just define refugees in broad terms as people forced to flee their home countries with no reasonable prospect of returning there in the foreseeable future. They

need new homes. Who should provide those homes? What obligations do we have, if any, to admit refugees?

Let's distinguish first between refugees for whose plight we are responsible and refugees for whose plight we are not responsible. Clearly, we have a moral responsibility to find homes and permanent solutions for refugees who have had to flee their homes because of our actions. Americans—whether supporters or opponents of the war—recognized this in the wake of the Vietnam War and took in hundreds of thousands of refugees from Vietnam, Cambodia, and Laos. Americans have the same sort of obligation towards refugees from Iraq and Afghanistan, especially those who have been forced to flee because their lives are in danger as a result of their cooperation with Americans. This issue should have nothing to do with whether one supports or opposes these wars. It is deep moral failure that Americans have done so little in this regard.

All rich countries have responsibilities for refugee flows that we can already foresee. We should already be starting to think about who ought to take in ecological refugees—people forced to flee their homes because of global warming and the resulting changes in their physical environment. Clearly the rich industrial states bear a major responsibility for the changes that are already taking place. It is our responsibility, not those of geographically-proximate states, to find a place for these people to live. Given the divergence between what justice requires and what serves our interests in this case, I am not optimistic about the likelihood of our meeting our responsibilities, but that is no reason not to acknowledge them in a philosophical inquiry like this one.

Finally, we have obligations to respond to the plight of refugees even when we are not responsible for their situation. The failure of other states to

respond to the plight of Jews fleeing Hitler is one of the great shames of modern history. The Holocaust was an important part of the impetus behind the creation of the modern refugee regime, a regime that promised that no refugee would be turned away, that refugees would be able to find new homes.

Some will object that many people claim to be refugees when they are really just economic migrants, looking for a better life. There is no doubt that some people, even many people, seek refugee status who would not qualify even under a generous interpretation of the provisions of the Geneva Convention or other refugee legislation. It is also the case, however, that the rich industrial states have systematically tried to prevent everyone who might be able to file a plausible refugee claim from coming. All rich states have imposed visa requirements and carrier sanctions that are entirely indiscriminate in their exclusions (Gibney 2006). When people do arrive seeking protection, they are often met with narrow legal interpretations that deny them refugee status even though officials cannot send them back where they came from because they know that they would be in danger. They wind up in limbo for years. This is a profound moral failure, but I confess that the gap between our interests and our moral duties is so great here that I despair of a feasible solution.

OPEN BORDERS

Finally, let's reconsider this idea that we are morally entitled to control our borders, an idea that will seem so self-evident to many people that it will appear preposterous to challenge it. Why should borders be open?

Borders have guards and the guards have guns. This is an obvious fact of political life but one that is easily hidden from view—at least from the

view of those of us who are citizens of affluent Western democracies. If we see the guards and guns at all, we find them reassuring because we think of them as there to protect us rather than to keep us out. To Africans in small, leaky vessels seeking to avoid patrol boats while they cross the Mediterranean to southern Europe, or to Mexicans willing to risk death from heat and exposure in the Arizona desert to evade the fences and border patrols, it is quite different. To these people, the borders, guards, and guns are all too apparent, their goal of exclusion all too real. What justifies the use of force against such people? Perhaps borders and guards can be justified as a way of keeping out terrorists, armed invaders, or criminals. But most of those trying to get in are not like that. They are ordinary, peaceful people, seeking only the opportunity to build decent, secure lives for themselves and their families. On what moral grounds can we keep out these sorts of people? What gives anyone the right to point guns at them?

To most people the answer to this question will seem obvious. The power to admit or exclude non-citizens is inherent in sovereignty and essential for any political community. Every state has the legal and moral right to exercise that right in pursuit of its own national interest and of the common good of the members of its community, even if that means denying entry to peaceful, needy foreigners. States may choose to be generous in admitting immigrants, but, in most cases at least, they are under no obligation to do so.

I want to challenge that view. In principle, I argue, borders should generally be open and people should normally be free to leave their country of origin and settle in another, subject only to the sorts of constraints that bind current citizens in their new country. The argument is strongest when applied to the migration of people from poor, developing countries to Europe and North America, but it applies more generally.

Citizenship in Western democracies is the modern equivalent of feudal privilege—an inherited status that greatly enhances one's life chances. Like feudal birthright privileges, restrictive citizenship is hard to justify when one thinks about it closely. To be born a citizen of an affluent state in Europe or North America is like being born into the nobility (even though most of us belong to the lesser nobility). To be born a citizen of a poor country in Asia or Africa is (for most) like being born into the peasantry in the Middle Ages (even if there are a few rich peasants). In this context, limiting entry to the rich states is a way of protecting a birthright privilege. Reformers in the late Middle Ages objected to the way feudalism restricted freedom, including the freedom of individuals to move from one place to another in search of a better life—a constraint that was crucial to the maintenance of the feudal system. But modern practices of citizenship and state control over borders tie people to the land of their birth almost as effectively. If the feudal practices were wrong, what justifies the modern ones?

My starting point is an assumption of human moral equality, a commitment to the equal moral worth of all human beings. This does not entail the sort of cosmopolitanism that requires every agent to consider the interests of all human beings before acting or that insists that every policy or institution be assessed directly in terms of its effects on all human beings. It does, however, entail a commitment to justification through reason-giving and reflection that does not simply presuppose the validity of conventional moral views or the legitimacy of existing arrangements or our entitlement to what we have.

Freedom of movement is both an important liberty in itself and a prerequisite for other freedoms. So, we should start with a presumption for free migration. Restrictions on migration, like any use of force, need to be defended. Nevertheless, freedom of movement is only one important human interest, and it may conflict with others. There is no

reason to assume that all important human freedoms are fully compatible with one another or with other basic human interests. Restrictions on particular freedoms may sometimes be justified because they will promote liberty overall or because they will promote other important human concerns, but we cannot justify restrictions on the freedom of others simply by saying that the restrictions are good for us. We have to show that they somehow take everyone's legitimate claims into account, that we are not violating our fundamental commitment to equal moral worth.

Citizenship in Western democracies is the modern equivalent of feudal privilege—an inherited status that greatly enhances one's life chances

A commitment to equal moral worth may not require us to treat people identically in every way, but it does require us to respect basic human freedoms. People should be free to pursue their own projects and to make their own choices about how they live their lives so long as this does not interfere with the legitimate claims of other individuals to do likewise. To enjoy this general sort of freedom, people have to be free to move where they want (subject to the same restraints as others with regard to respect for private property, the use of public property, etc.). The right to go where you want is itself an important human freedom. It is precisely this freedom, and all that this freedom makes possible, that is taken away by imprisonment. Thus conventional immigration controls improperly limit the freedom of non-citizens who are not threatening the basic rights and freedoms of citizens.

A commitment to equal moral worth requires some sort of basic commitment to equal opportunity. Access to social positions should be determined by an individual's actual talents and capacities, not limited on

the basis of arbitrary native characteristics (such as class, race, or sex). But freedom of movement is essential for equality of opportunity. You have to be able to move to where the opportunities are in order to take advantage of them. Again, the conventional pattern of border controls greatly restricts opportunities for potential immigrants.

Finally, a commitment to equal moral worth entails some commitment to the reduction of existing economic, social, and political inequalities, partly as a means of realizing equal freedom and equal opportunity and partly as a desirable end in itself. Freedom of movement would contribute to a reduction of political, social, and economic inequalities. There are millions of people in poor states today who long for the freedom and economic opportunity they could find in Europe and North America. Many of them take great risks to come. If the borders were open, millions more would move. The exclusion of so many poor and desperate people seems hard to justify from a perspective that takes seriously the claims of all individuals as free and equal moral persons.

I have no illusions about the likelihood of rich states actually opening their borders. The primary motivation for this open borders argument is my sense that it is of vital importance to gain a critical perspective on the ways in which our collective choices are constrained, even when we cannot do anything to alter those constraints. Social institutions and practices may be deeply unjust and yet so firmly established that, for all practical purposes, they must be taken as background givens in deciding how to act in the world at a particular moment in time. For example, feudalism and slavery were unjust social arrangements that were deeply entrenched in places in the past. In those contexts, there was no real hope of transcending them in a foreseeable future. Yet criticism was still appropriate.

Even if we have to take such arrangements as givens for purposes of immediate action in a particular context, we should not forget about our

assessment of their fundamental character. Otherwise we wind up legitimating what should only be endured. Of course, most people in democratic states think that their institutions have nothing in common with feudalism and slavery from a normative perspective. The social arrangements of democratic states, they suppose, are just—or nearly so. It is precisely that complacency that the open borders argument is intended to undermine. For I imagine (or at least hope) that in a century or two people will look back upon our world with bafflement or shock in the way we react when we read of Marie Antoinette saying “Let them eat cake.” They will ask themselves how we could have possibly failed to see the deep injustice of a world so starkly divided between haves and have-nots and why we felt so complacent about this division, so unwilling to do what we could to change it.

The argument for open borders provides one way of bringing this deep injustice of the modern world into view. It is only a partial perspective, to be sure, because even if borders were open, that would not address all of the underlying injustices that make people want to move. But it is a useful perspective because our responsibility for keeping people from immigrating is clear and direct whereas our responsibility for poverty and oppression elsewhere often is not as obvious, at least to many people. We have to use overt force to prevent people from moving. We need borders with barriers and guards with guns to keep out people whose only goal is to work hard to build a decent life for themselves and their children. And that is something we could change. At the very least, we could let many more people in. Our refusal to do so is a choice we make, and one that keeps many of them from having a chance at a decent life.

BIBLIOGRAPHY

- Baubock, Rainer. 1994. *Transnational Citizenship: Membership and Rights in International Migration*. Aldershot, UK: Edward Elgar.
- Carens, Joseph H. 1987. "Aliens and Citizens: The Case for Open Borders." *Review of Politics* 49: 251–273.
- Carens, Joseph H. 1992. "Migration and Morality: A Liberal Egalitarian Perspective." In *Free Movement*, edited by Brian Barry and Robert Goodin, 25–47. London: Harvester-Wheatsheaf.
- Carens, Joseph H. 2000a. *Culture, Citizenship, and Community: A Contextual Exploration of Justice as Evenhandedness*. Oxford: Oxford University Press.
- Carens, Joseph H. 2000b. "Per a una ètica de la immigració. Els drets dels residents." In *Idees. Revista de temes contemporanis* 8: 90–102. Revised English version published in 2002 as "Citizenship and Civil Society: What Rights for Residents?" In *Dual Nationality, Social Rights and Federal Citizenship in the US and Europe: The Reinvention of Citizenship*, edited by Randall Hansen and Patrick Weil, 100–118. Oxford: Berghahn Books.
- Carens, Joseph H. 2002. "Inmigración y justicia: ¿A quién dejamos pasar?" *Isegoria* 26: 5–27. Revised English version published as 2003 "Who Should Get In? The Ethics of Immigration Admissions." *Ethics and International Affairs* 17: 95–110.
- Carens, Joseph H. 2004. "La integración de los inmigrantes." In *Inmigración y procesos de cambio: Europa y el Mediterráneo en el contexto global*, edited by Gemma Aubarell and Ricard Zapata, 393–420. Barcelona: Icaria-Institut Europeu de la Mediterrània. Revised English version published as 2005 "The Integration of Immigrants." *Journal of Moral Philosophy* 2: 29–46.
- Carens, Joseph H. 2007. "Wer gehört dazu? Migration und die Rekonzeptualisierung der Staatsbürgerschaft." In *Bürgerschaft und Migration. Einwanderung und Einbürgerung aus ethisch-politischer Perspektive*, edited by Simone Zurbuchen, 25–51. Münster: LIT. Revised English version published as 2008 "Immigration, Democracy, and Citizenship." In *Of States, Rights, and Social Closure: Governing Migration and Citizenship*, edited by Oliver Schmidtke and Saime Ozcurumez, 17–36. New York: Palgrave Macmillan.
- Carens, Joseph H. 2008a. "The Rights of Irregular Migrants." *Ethics & International Affairs* 22: 163–186.
- Carens, Joseph H. 2008b. "Live-In Domestic, Seasonal Workers, and Others Hard to Locate on the Map of Democracy." *Journal of Political Philosophy* 16: 419–445.
- Carens, Joseph H. 2010. *Immigrants and the Right to Stay*. Cambridge: MIT Press European Council. 2003. European Council Directive 2003/109/EC.
- Gibney, Matthew. 2006. "A Thousand Little Guantánamos: Western States and Measures to Prevent the Arrival of Refugees." In *Migration, Displacement, Asylum: The Oxford Amnesty Lectures 2004*, edited by K. Tunstall, 139–160. Oxford: Oxford University Press.
- Hailbronner, Kai. 1989. "Citizenship and Nationhood in Germany." In *Immigration and the Politics of Citizenship in Europe and North America*, edited by William Rogers Brubaker. Lanham, MD: German Marshall Fund and University Press of America.
- Rubio-Marín, Ruth. 2000. *Immigration as a Democratic Challenge*. Cambridge: Cambridge University Press.

>> This chapter discusses the ethical issues raised by immigration to affluent democratic states in Europe and North America. The chapter identifies questions about the following topics: access to citizenship; inclusion; residents; temporary workers; irregular migrants; non-discrimination in admissions; family reunification; refugees; open borders. It explores the answers to these questions that flow from a commitment to democratic principles.

JOSEPH H. CARENS

University of Toronto

II. ETHICS IN SCIENCE AND TECHNOLOGY

TECHNOLOGY AND THE BURDEN OF RESPONSIBILITY

Carl Mitcham

With great power there must also come—great responsibility!

Last panel, first Spider-Man story
(*Amazing Fantasy* 15 August 1962)

Over the course of the five hundred years after 1500, traditional hand and human-based technics was transformed through a scientific exploitation of previously unseen forces into what is now known as modern technology. Such technology is complicit in all the most basic problems facing humanity in the opening decades of the 21st century—whether nuclear (weapons and power plants), chemical (environmental pollution), medical (life-extension and body hybridization), biological (loss of biodiversity, biotechnology), informational (overload, privacy, and virtual reality), climatological (global transformations of sky, sun, ocean, and earth), and more. Despite on-going efforts to address such challenges with scientific research and technological innovation, responses remain fundamentally ethical in character. Technological fixes require ethical reflection concerning which of the available design options to pursue. Yet so overwhelmed are we with conflicting crises and divergent interest group arguments for different solution paths that it is often difficult to think. How can we begin to assess the techno-human condition in which we now live and move and have our being?

In the presence of this dynamism of challenges, there has been a promiscuous, polymorphous invocation of the concept of ethical responsibility. Scientists have obligations for the responsible conduct of research. Physicians must be responsible to their patients. Engineers are

responsible for protecting public safety, health and welfare in the design of structures, products, processes, and systems. Entrepreneurs have responsibilities to commercialize science and technology for public benefit, and the public itself is asked to responsibly support science and technology. People are counseled to practice responsible sex. Consumers are admonished to be responsible users of the artifacts and opportunities saturating the techno-lifeworld. Governments must be responsible to their citizens, corporations to their investors, schools to their students.

Despite on-going efforts to address such challenges with scientific research and technological innovation, responses remain fundamentally ethical in character

So diversely referenced, what does responsibility mean? Appeal to responsibility is all but absent in traditional ethical discourse, whether that discourse is centered on virtue, rights, contract, utility, or duty. Insofar as responsibility is present in received moral theory it awaits disclosure or interpretation. Indeed, in English the abstract noun “responsibility” (although not the adjective “responsible”) is only a few hundred years old, and it has emerged to cultural and ethical prominence in diverse legal, religious, engineering, scientific, and philosophical contexts precisely through progressive engagements with technology. One way to try to define the meaning of responsibility therefore appropriately begins with a review of this history.

THE CONTRACTION AND EXPANSION OF LEGAL LIABILITY

The legal term for responsibility is “liability.” Liability is differentially manifest in two types of law: criminal and civil. Criminal law deals with those offenses prosecuted and punished by the state in order to protect a

public interest. Civil law includes breaches of explicit or implicit contract in which injured parties sue for compensation or damages.

Criminal liability was once construed to follow simply from a transgression of the external forum of the law—doing something the law proscribed or not doing something it prescribed. But as it developed in Europe under the influence of a Christian theology of sin, which stresses the importance of inner consent, criminal liability became appreciative of the internal forum of intent. The result is a distinction between unintended transgressions (accidental homicide) and intentional acts (first degree murder). The result has been a historical contraction of criminal liability insofar as punishments for the former are less severe than for the latter.

In contrast to the contraction in criminal liability, civil liability has expanded in scope as a result of progressive delimitations on the requirements for intentionality. Civil liability can be incurred by contract or by what is called “strict liability.” In the case of explicit or implicit contract, intentional fault or negligence (a kind of failure of intention) must be proved. In the case of strict liability there need be no fault or negligence *per se*. In strict liability, a person can be responsible for harm caused by an action whether intended or not.

The concept of strict or no-fault liability as a special kind of tort for which the law provides redress developed in parallel with modern industrial technology. In pre-modern Roman law, an individual could sue for damages only when losses resulted from intentional interference with person or property, or from negligence. By contrast, in the English common law case of *Rylands v. Fletcher*, decided on appeal by the House of Lords in 1868, Thomas Fletcher was held liable for damages caused by an industrial undertaking despite their unintentional and non-negligent character. Fletcher, a mill owner, had constructed a water reservoir to support his mills. Water from the reservoir inadvertently leaked through

an abandoned mine shaft to flood John Ryland's adjacent mine. Although he admitted Fletcher did not and perhaps could not have known about the abandoned mine shaft, Rylands sued for damages. The eventual ruling in Rylands' favor was based on the idea that the building of a dam, which raised the water above its "natural condition," in itself posed a hazard for which Fletcher was liable. Unintended consequences was no excuse.

Today the most common kinds of civil liability are just such no-fault or *prima facie* liabilities related to "non-natural" industrial workplaces and engineered products in which artifacts in themselves, independent of intent, pose hazards. In the United States one key case establishing this principle was that of *Greenman v. Yuba Power Products, Inc.*, decided on appeal by the California Supreme Court in 1963. In the words of Chief Justice Roger Traynor, in support of the majority:

A manufacturer is strictly liable in tort when an article he places on the market ... proves to have a defect that causes injury to a human being ... The purpose of such liability is to ensure that the costs of injuries resulting from defective products are borne by the manufacturers ... rather than by the injured persons who are powerless to protect themselves.

The expansion of legal liability is thus coordinate with and in response to issues engendered by the expansive presence of technological products the consequences of which users find it increasingly difficult to appraise.

RELIGIOUS RESPONSIBILITY IN A SECULAR AGE

The term "responsibility" itself comes from the Latin *respondere*, "to promise in return" or "to answer." As such it readily applies to what is the

primordial experience of the Judeo-Christian-Islamic tradition: a call from God that human beings must accept or reject.

The discovery and development of religious responsibility again parallels increased appreciation of the ethical issues emerging in association with science and technology. It is in opposition to notions of secularization and control over nature, for instance, that the Swiss Protestant theologian Karl Barth (1886–1968) distinguished between worldly and transcendent relationships. God is the wholly other, the one who cannot be reached by scientific knowledge or influenced by technological power. There is a radical difference between the human attempt to reach God (which Barth terms religion) and the human response to God’s divine revelation (faith). In his *Church Dogmatics* (1932) Barth goes so far as to identify goodness with responsibility in the sense of responding to God.

Catholics have been no less ready to make responsibility central to their understanding of moral theology. For Canadian Jesuit Bernard Lonergan (1904–1984), “Be responsible” is a transcendental precept coordinate with the duties to “Be attentive,” “Be intelligent,” and “Be reasonable.”

Responsibility also plays a prominent role in the documents of Vatican II. At one point, after referencing the achievements of science and technology, *Gaudium et spes* (1965) adds that, “With an increase in human powers comes a broadening of responsibility on the part of individuals and communities” (no. 34). Later, this same document on the church in the modern world states, “We are witnesses of the birth of a new humanism, one in which man is defined first of all by his responsibility toward his brothers and toward history” (no. 55).

One sustained effort to articulate a general Christian ethics of responsibility can be found in H. Richard Niebuhr’s *The Responsible Self* (1963). Niebuhr contrasts the Christian anthropology of the human-as-

answerer to the secular anthropologies of human-as-maker and human-as-citizen. For human-as-maker, moral action is essentially consequentialist and technological. For human-as-citizen, morality becomes deontological in character. With human-as-answerer, the tension between consequentialism and deontology is bridged by responsiveness to a complex reality, by an interpretation of the nature of this reality—and by attempts to fit in, to act in harmony with what is already going on. “What is implicit in the idea of responsibility is the image of man-the-answerer, man engaged in dialogue, man acting in response to action upon him” (Niebuhr 1963, 56). Niebuhr’s ethics of responsibility exhibits affinities with an ecological ethics.

This feature of Niebuhr’s theology of responsibility also suggests a weakness. Niebuhr wrote in an age that was becoming increasingly secular, where belief and the experience of God is, in Charles Taylor’s (2007) description, more and more simply one option among many—and not the easiest to affirm. More persuasive calls come from experiences of strictly this-worldly flourishing. In these cases, however, responsive commitments have to be “mobilized” as environmental or libertarian movements utilizing methods analogous to those deployed by engineers to design and bring into existence large-scale material constructions. Calls of this form are likewise often experienced after the manner of the new archetype of the telephone: as an electronic interruption to be picked up or not, as we will.

ENGINEERING RESPONSIBILITY FOR PUBLIC SAFETY, HEALTH AND WELFARE

Technologists and engineers as inventors of such commercially crucial communication devices as telephones and computers are more subject than others in the techno-lifeworld to both external (legal, economic) and internal (ethical professional) constraints. Indeed, since the early

20th century engineers, especially in the United States where they largely work outside explicit state control and as employees of private corporations, have attempted to formulate guidelines for professional conduct as an internal ethics of responsibility—precisely because of the technological powers they wield.

Engineering associations aspire to the formulation of codes of conduct similar to those found in medicine and law. Yet unlike medicine, with its ideal of health, or law and its ideal of justice, it is unclear precisely what general ideal could serve in engineering as the basis for a professional ethics. The original engineer (Latin *ingeniator*) was the builder and operator of battering rams, catapults, and other “engines of war.” Engineering was originally military engineering. As with all military personnel, the engineers’ behavior was primarily dictated by the duty of obedience to hierarchical authority.

The 18th century emergence of civil engineering in the design and construction of public works such as roads, water-supply and sanitation systems, and other non-military infrastructure did not initially alter this situation. Civil engineers were loyal members of whatever social institutions in which they served. But as technological powers in the hands of engineers began to enlarge, and the number of engineers increased, tensions mounted between subordinate engineers and their superiors. The manifestation of this tension is what Edwin Layton (1971) called the “revolt of the engineers,” which occurred during the late 19th and early 20th centuries. It was in association with this revolt and its aftermath that “responsibility” entered the engineering ethics vocabulary.

One influential effort at formulating engineering responsibility led to the technocracy movement and the failed idea that engineers more than politicians should wield political power. Henry Goslee Prout, a former military engineer who became general manager of the Union Switch and

Signal Company, speaking to the Cornell Association of Civil Engineers in 1906, described the profession in just such leadership terms:

The engineers more than all other men, will guide humanity forward ... On the engineers ... rests a responsibility such as men have never before been called upon to face (quoted from Akin 1977, 8).

Engineering associations aspire to the formulation of codes of conduct similar to those found in medicine and law

At the height of this dream of expanded engineering responsibility—following his successful leadership, as Secretary of Commerce, of the response to the great 1927 floods on the Mississippi River—Herbert Hoover was elected the first civil-engineer president of the United States. The same time period witnessed the creation of a political technocracy movement that fielded its own candidates for elective office. The ideology of technocracy sought to make engineering efficiency an ideal analogous to those of medical health and legal justice.

The problem with this ideal was two-fold. First, the elevation of efficiency to ideal status tends to undermine democracy. The major totalitarianisms of the mid-20th century (communism and fascism) often justified themselves by appeals to efficiency. Second, the ideal of efficiency itself, as a ratio of outputs over inputs, is context-dependent; efficiency is subject to multiple interpretations, depending on how the inputs and outputs themselves are defined.

Influenced in part by the communist and fascist contaminations of efficiency, during World War II another shift took place in the engineering

conception of responsibility: not from company and client loyalty to technocratic efficiency, but from private to public loyalty. Beginning in the late 1940s, professional codes of engineering ethics in the United States increasingly made protection of public safety, health, and welfare a paramount responsibility. Having failed in formulating a technical ideal as the basis of responsibility, engineers emphasized a commitment to safety, health, or welfare in the public realm—even though in many instances their relevant expert knowledge was quite limited (Mitcham 2009).

With engineering under attack as a cause of environmental pollution, for the design of defective consumer goods, and as too willing to feed at the trough of the defense contract, one American engineer, Frank Collins, summed up the situation in the mid-1970s as follows:

Unlike scientists, who can claim to escape responsibility because the end results of their basic research cannot be easily predicted, the purposes of engineering are usually highly visible. Because engineers have been claiming full credit for the achievements of technology for many years, it is natural that the public should now blame engineers for the newly perceived aberrations of technology (Collins 1973, 448).

In other words, engineers may have oversold their responsibilities and are justly being chastened.

For Collins, the responsibilities of engineers are in fact quite limited. They have no general responsibilities, only specific or special ones:

There are three ways in which the special responsibility of engineers for the uses and effects of technology may be exercised. The first is as individuals in the daily practice of their work. The second is as a group through the technical societies.

The third is to bring a special competence to the public debate on the threatening problems arising from destructive uses of technology (Collins 1973, 449).

This debate, formalized in various technology-assessment methodologies and governmental agencies, can be interpreted as a means of subordinating engineers to the larger social order. Yet the issue of responsibility has so intensified that engineers now commonly and consciously debate the scope of their responsibilities relative to issues not previously acknowledged.

SCIENCE AND SOCIAL RESPONSIBILITY

The debate with regard to responsibility has been equally pronounced in science. Efforts to define the responsibility of scientists have involved a refinement of the Enlightenment view that science has the best handle on truth and is thus essentially and under all conditions beneficial to society. From the Enlightenment perspective, the primary responsibility of scientists is simply to pursue and extend their disciplines. Using the knowledge they produce, scientists then have a responsibility to educate the public about the nature of reality—to speak the truth to traditional authorities and drive superstition from public affairs.

Historically this Enlightenment responsibility found expression in Isaac Newton's hope for science as theological insight, Voltaire's belief in its comprehensive utility, and Baruch Spinoza's thought that in science one possesses something pure, unselfish, self-sufficient, and blessed. A classic manifestation was the great French *Encyclopédie* (1751–1772), which sought “to collect all the knowledge that now lies scattered over the face of the earth, to make known its general structure to the men among whom we live, and to transmit it to those who will come after us.” Such a

project, wrote Denis Diderot, demands “intellectual courage.” In the words of Immanuel Kant, *Sapere aude*, Dare to know.

Questioning of this tradition has roots in the Romantic critique of scientific epistemology and industrial practice. Only after World War II, however, did scientists themselves begin to have any serious questions of their own. Since then one may distinguish four overlapping phases. Simplifying somewhat, in the first (1945–1965), scientists recognized the potentially adverse unintended consequences of some of their work and tried to help society to adjust accordingly. In the second (1965–1985), some scientists aspired to transform the inner character of science itself. In a third (1985–2000), there was a renewed defense of science and affirmation of its value while recognizing the need for better internal professional self-regulation. More recently (2000–present), science has become a battleground of competing interpretations of responsibility and policy interests.

Phase One: Recognizing Responsibilities. In December 1945, the first issue of the *Bulletin of the Atomic Scientists* began with a statement of goals for the newly formed Federation of Atomic (later American) Scientists. Members should “clarify ... the ... responsibilities of scientists in regard to the problems brought about by the release of nuclear energy” and “educate the public [about] the scientific, technological, and social problems arising from the release of nuclear energy.” Previously scientists would have described their responsibilities as restricted to doing good science, not falsifying experiments, and cooperating with other scientists. Now, because of the potentially disastrous implications of at least one branch of science, scientists felt their responsibilities enlarged. They were called on to take into account more than the procedures of science; they had to respond to a transformed situation.

The primary way the atomic scientists responded over the next decade to the new situation created by scientific weapons technology was to work

for placing nuclear research under civilian control in the United States and to further subordinate national to international control. They did not, however, oppose the exceptional growth of science. As Edward Teller wrote in 1947, the responsibility of the atomic scientists was not just to educate the public and help people establish a civilian control that would “not place unnecessary restrictions on the scientist;” it was also to continue to pursue scientific progress. “Our responsibility,” in Teller’s words, “is [also] to continue to work for the successful and rapid development of atomic energy” (Teller 1947, 355).

Science has become a battleground of competing interpretations of responsibility and policy interests

Phase Two: Responsible Questioning. During the mid-1960s and early 1970s, however, there emerged a second-stage questioning of scientific responsibility. Initially this questioning arose in response to growing recognition of the problem of environmental pollution—a phenomenon that cannot be imagined as alleviated by any simple de-militarization of science or increases in democratic control. Some of the worst environmental problems are caused precisely by democratic availability and use—as with pollution from automobiles, agricultural chemicals, and aerosol sprays, not to mention the mounting burden of consumer waste disposal. Rachel Carson’s *Silent Spring* (1962) was an early statement of the problem that called for an internal transformation of science and technology themselves. But an equally focal experience during this second-stage movement toward an internal restructuring of science was the Asilomar Conference of 1975, which addressed the dangers of recombinant DNA research.

After Asilomar, it turned out that the danger of recombinant DNA research was not as immediate or great as feared, and some members of the

scientific community became resentful of post-Asilomar agitation. Increased possible consequences nevertheless further broadened the scope of what could be debated as the proper responsibility of scientists. Robert L. Sinsheimer, for instance, himself a respected biological researcher and chancellor of the University of California, Santa Cruz, argued that modern science was based on two faiths. One is “a faith in the resilience of our social institutions ... to adapt the knowledge gained by science ... to the benefit of man and society more than the detriment”—a faith that “is increasingly strained by the acceleration of technical change and the magnitude of the powers deployed” (Sinsheimer 1978, 24). But even more telling is

a faith in the resilience, even in the benevolence, of Nature as we have probed it, dissected it, rearranged its components in novel configurations, bent its forms, and diverted its forces to human purpose. The faith that our scientific probing and our technological ventures will not displace some key element of our protective environment, and thereby collapse our ecological niche. A faith that Nature does not set booby traps for unwary species (Sinsheimer 1978, 23).

This kind of argument points toward subsequent affirmations and promotions of critical science (Ravetz 1971), stewardship science (Lowrance 1985), post-normal science (Funtowicz and Ravetz 1993), and mode-2 knowledge production (Gibbons et al. 1994). In each case the idea is that science can no longer be pursued without some degree of reflexivity or self-consciousness about its assumptions and social contexts—especially the ways in which its products become engaged with social, political, and economic contexts.

Phase Three: Re-emphasizing Ethics. The attempt to transform science from within was overtaken in the mid-1980s by a new external criticism

not of scientific products (knowledge) but of scientific processes (methods). A number of high-profile cases of scientific misconduct raised questions about whether public investments in science were being wisely spent. Were scientists simply abusing the public trust? Some economists also began to question whether, even insofar as scientists did not abuse the public trust, but followed responsible research practices, science contributed as much to economic progress as had previously been assumed.

The upshot was that the scientific community undertook a self-examination of its ethics and its efficiency. Efforts to increase ethics education, or education in what became known as the responsible conduct of research (RCR) became a required part of science education programs, especially in the biomedical sciences at graduate level. Increased efficiency in grant administration, management, and accountability became issues for critical assessment, so that since the 1990s scientists have increasingly been understood to possess social responsibilities that include the promotion of ethics and efficiency in the processes of doing science. When supported with public funding, science has also increasingly been required to justify itself, in terms used by the US National Science Foundation, with reference not just to intellectual merit but also to broader impacts.

Accordingly, scientists have attempted to re-emphasize the importance of science to national healthcare, the economy, environmental management, and defense. In the face of the AIDS epidemic, biomedical research is presented as the only answer. Computers, biotechnology and nanotechnology have been offered as gateways to new competitive advantages and the creation of whole new sectors of jobs. The understanding of such phenomena as global climate change is argued to depend on computer models and the science of complexity. Finally, especially since the suicide attacks of September 11, 2001, new claims

have been made for science as a means to develop protection against the dangers of international fundamentalist terrorism. The social responsibility of science is defended as the ethically-guided production of knowledge that addresses a broad portfolio of social needs, from the promotion of health to the defense of civilization. Appropriately enough, during this same period sociologists and historians have begun to re-conceptualize science in terms of its social construction and to emphasize the extent to which boundaries have broken down between science and technology so that the two have merged into something better termed “technoscience.”

The social responsibility of science is defended as the ethically-guided production of knowledge that addresses a broad portfolio of social needs, from the promotion of health to the defense of civilization

Phase Four: Policy Battles. Insofar as technoscience is seen as socially constructed, its social, political, and economic engagements readily become contested. Since the turn of the century technoscience has increasingly become a policy battleground. Scholars of science-technology-society (STS) relations have criticized technocratic positivism in science-policy formation. Fundamentalist Christians have charged atheist scientists with using biological evolution and human embryonic stem-cell research to promote a secular humanist agenda. Neo-conservative economists and politicians have charged climate modelers with promoting socialist ideologies under the subterfuge of claims to sound science and proposals for dramatic changes in energy production and use. Scientists, progressive politicians, and ecological economists have retaliated with *exposés* of science distorted in the name of corporate and conservative political interests. In such circumstances distinctions that had been central to the practicing of social responsibility in and with

science—distinctions such as those between facts and values, scientists and politicians, omission and commission—appear increasingly frail if not philosophically indefensible.

RESPONSIBILITY IN PHILOSOPHY

The turn to responsibility in philosophy, like that in theology, exhibits two faces: first, a reaction to the challenge posed by the dominance of scientific and technological ways of thinking; second, an attempt to take into account the rich and problematic complexity of technoscientific practice. The first is prominent in Anglo-American analytic discourse, the second in European phenomenological traditions.

According to Richard McKeon (1957) the concept of responsibility has diverse philosophical roots, one of which is the Greek analysis of causality (or imputability) and punishment (or accountability) for actions. As McKeon initially noted: “Whereas the modern formulation of the problem [of responsibility] begins with a conception of cause derived from the natural sciences and raises questions concerning the causality of moral agents, the Greek word for cause, *aitia* (like the Latin word *causa*), began as a legal term and was then extended to include natural motions” (McKeon 1957, 8–9). But it was in efforts to defend moral agency against threats from various forms of scientific materialism that the term became prevalent in analytic philosophy. For instance, H. L. A. Hart’s (1968) distinctions between four kinds of responsibility—role, cause, liability, and capacity—are all related to issues of accountability as they occur in a legal framework, where they can be used to articulate a theory of punishment that meets challenges posed by modern psychology.

McKeon’s general thesis is that the term “responsibility” appeared in late 18th and early 19th century moral and political discourse—as an abstract

noun derived from the adjective “responsible”—in coordination with the expansion of democracy. But there are also numerous historical connections between the rise of democracy and the development of modern technology. On the theoretical level, the possessive individualism of *homo faber*, developed by Thomas Hobbes and John Locke, prepared the way for democracy and the new industrial order. On the practical level, democratic equality and technology feed off each other.

But the connection goes deeper. According to McKeon, responsibility was introduced into the political landscape because of a breakdown of the old social order based on hierarchy and duty, and the inability of a new one to function based strictly on equality and self-interest. Whereas the former was no longer supported by the scientific world view, the latter led to the worst exploitative excesses of the Industrial Revolution. To meet this crisis, there developed the ideal of relationship, in which individuals not only pursued their own self-interest but tried to recognize and take into account the interests and actions of others. Responsibility became respectability.

Something similar was called for by industrial technology. Good artisans, who dutifully followed the ancient craft traditions, were no longer enough, yet neither should they just be turned loose to invent as they pleased. Thomas Edison invented an electric vote-tallying device for the state legislature, only to discover that the legislature preferred the traditional non-automatic method; in response he resolved to eschew inventing what he thought someone needed without first consulting the relevant potential users’ world about what they wanted. (Marketing had not yet been invented.) The new artisan must learn to respond to a variety of factors—the material world, the economy, consumer demand, and more. This is what turns good artisans into responsible inventors and engineers. As their technological powers increase, so will their need to respond to an increasing spectrum of factors, to take more into account. Thus arises

what may be described as a duty *plus respicere*, to enlarge an agent's circumspection (Mitcham 1994).

Another argument to this effect is provided by John Ladd who, in considering the situation of physicians, argues that the expansion of biomedical technology has increased the private practitioner's dependence on technical services and undermined professional autonomy. Moral problems concerning physicians and society can no longer rest on an ethics of roles but involve the ethics of power, "the ethical side of [which] is responsibility" (Ladd 1981, 42).

The metaphysical elaboration of this concept of responsibility has taken place primarily in European philosophical traditions. Lucien Lévy-Brühl's treatise on *L'idée de responsabilité* (1884) is its starting point. As subsequently echoed by his student McKeon, Lévy-Brühl begins by sketching the history of various aspects of the idea from antiquity to the late 19th century, and he is astonished that a concept so basic to modern morality should never have been subject to systematic analysis. Following Lévy-Brühl, the principle can be described as manifest in a variety of ways across the whole spectrum of phenomena. There is responsibility or responsiveness at the level of physical matter, as atoms and molecules interact or respond to each other. Living organisms are further characterized by a distinctive kind of interaction or responsiveness to their environments and each other.

Drawing on a similar ontological interpretation (although without reference to Lévy-Brühl) Hans Jonas has explored implications for science and technology. Responsibility was not a central category in previous ethical theory, Jonas argues, because of the narrow scope of pre-modern scientific knowledge and technological power. "The fact is that the *concept* of responsibility nowhere plays a conspicuous role in the moral systems of the past or in the philosophical theories of ethics." This is

because “responsibility ... is a function of power and knowledge,” which “were formerly so limited” that consequences at any distance “had to be left to fate and the constancy of the natural order, and all attention focused on doing right what had to be done now” (Jonas 1984, 123).

All this has decisively changed. Modern technology has introduced actions of such novel scale, objects, and consequences that the framework of former ethics can no longer contain them ... No previous ethics had to consider the global condition of human life and the far-off future, even existence, of the race. These now being an issue demands ... a new conception of duties and rights, for which previous ethics and metaphysics provide not even the principles, let alone a ready doctrine (Jonas 1984, 6 and 8).

The new principle thus made necessary by scientific knowledge and technological power is responsibility—especially responsibility toward the future. For Jonas, “responsibility today” is summarized in the statement that “care for the future of mankind is the overruling duty of collective human action in the age of a technical civilization” (Jonas 1984, 136).

Power conjoined with reason carries responsibility with it. This was always self-understood in regard to the intra-human sphere. What is not yet fully understood is the novel expansion of responsibility to the condition of the biosphere and the future survival of mankind (Jonas 1984, 138).

What for Jonas functions as a deontological principle, Caroline Whitbeck argues can also name a virtue. When children are described as reaching “an age of responsibility” it indicates they have become able to “exercise judgment and care to achieve or maintain a desirable state of affairs” (Whitbeck 1998, 37). Acquiring the ability to exercise such judgment is to

become responsible in the sense of acquiring a virtue. In this way, discussions of responsibility have also been influenced by feminist arguments for an ethics of care or relationship that would complement more common utilitarianism or deontology. At the same time, the term “responsibility” continues to name distributed obligations to practice such a virtue derived either from interpersonal relationships or from special knowledge and powers. “Since few relationships and knowledge are shared by everyone, most moral responsibilities are special moral responsibilities, that is, they belong to some people and not others” (Whitbeck 1998, 39).

But is the notion of responsibility delimited by and thereby moderated according to social role really adequate in a technological world where all to some degree exercise the powers of technoscience through their support for modern scientific education and research or the utilization of and dependence on technological products, processes and systems? Is it not the case that all citizens in technoscientific society have become in some sense engineers and thereby unavoidably assumed responsibilities for public safety, health, and welfare?

RESPONSIBILITY GENERALIZED

Traditional technics has been transformed into technology; the transformed process of making has in turn transformed the traditional lifeworld into what may be termed a techno-lifeworld. A key feature of the transformation in making is the conscious engagement with dimensions of reality unattended to in traditional technics.

Traditional technics engaged the material world through the unaided senses of touch and sight, of hand and eye coordination, taking into account only what is available to direct experience. In such a world

responding to relevant aspects of phenomena did not need to be consciously conceptualized as responsibility; artisans naturally respond to fire with care, skillfully learn how to assess and stack stone or mold clay into stable configurations, and have been taught from the remembered injury or death of others to avoid breathing or ingesting poisonous substances.

Modern engineering and technology, by contrast, introduce into the making activity an engagement with phenomena via mathematically analyzable forces in a sensorium extended through instrumentation into chemical composition at the level of atoms and molecules; engineers depend on conceptually analyzed materials and calculated centers of gravity, pressures, flows, and resistances. Technology further thinks out its makings through systematic design or miniature construction that takes into account more than traditional technics was ever able to experience.

In the techno-lifeworld so constructed by the rational taking into account of more than directly experienced phenomena, it is not surprising that moral behavior likewise must move beyond the primacy of anything approaching natural intuitions. Moral conduct too has to become more conscious, more rational, and take more into account. Such is the burden of responsibility in the presence of technology. Consider three simple but archetypical examples:

First, giving birth: In the natural state in which many children die young it is not just permissible but also virtuous for humans to desire children in order to reproduce the species. In the techno-lifeworld, where the large majority of children survive and live to old age, the natural virtue gives rise to overpopulation. The desire for children must submit to a consciousness of the long-term consequences of unfettered reproduction in order to bring a natural desire under the guidance of rationally determined limits.

Second, eating: In the natural world where evolution and adaptation have over long periods of time established a balance between human tastes for available foods and the requirements of human activity, eating can be cultivated into a quotidian and festive art. Eating is disciplined without much thinking into healthy patterns by natural availabilities as well as daily work. When people become food rich through industrial agriculture and technologically manufactured chemical attractions while at the same time being freed from requirements of physical labor, the healthy meal becomes dependent on scientifically guided nutrition and dietary labeling. Healthy eating increasingly requires scientific research and conscious discipline.

Moral conduct too has to become more conscious, more rational, and take more into account. Such is the burden of responsibility in the presence of technology

Third, dying: In the natural state in which human death is easily defined by pulmonary or cardiac arrest, there is little difficulty in determining when a life has ceased. In the techno-lifeworld, where highly technologized medicine is able to intervene and provide artificial prolongation of pulmonary and cardiac functioning, humans have to develop a definition of death that depends on the instrumental appraisal of brain functioning. Death necessarily becomes a concept more than an experience.

Efforts to come to terms with such new dimensions of responsibility can be found not only in philosophy but in popular culture in the form of comic book super-heroes. Spider-Man is one peculiarly poignant example. Having been bitten by a radioactive spider in a science laboratory, Peter Parker becomes the possessor of great powers that bring with them great

responsibilities. The result, as Parker later reflects, is that “the choice to lead an ordinary life is no longer an option.” Such is the burden of the new world of responsibility in the presence of technological powers.

ACKNOWLEDGMENTS

Earlier iterations of this argument have appeared in Mitcham (1987 and 2005).

BIBLIOGRAPHY

- Akin, William E. 1977. *Technocracy and the American Dream: the Technocrat Movement, 1900–1941*. Berkeley: University of California Press.
- Collins, Frank. 1973. "The Special Responsibility of Engineers." In *The Social Responsibility of Engineers, Annals of the New York Academy of Sciences* 196 (10), edited by Harold Fruchtbaum, 448–450.
- Funtowicz, Silvio O., and Jerome R. Ravetz. 1990. *Uncertainty and Quality in Science for Policy*. Dordrecht, Netherlands: Kluwer Academic Publishers.
- Hart, H. L. A. 1968. *Punishment and Responsibility: Essays in the Philosophy of Law*. New York: Oxford University Press.
- Jonas, Hans. 1984. *The Imperative of Responsibility: In Search of an Ethics for the Technological Age*. Chicago: University of Chicago Press.
- Ladd, John. 1981. "Physicians and Society: Tribulations of Power and Responsibility." In *The Law-Medicine Relation: A Philosophical Exploration*, edited by Stuart F. Spicker, Joseph M. Healey and H. Tristram Engelhardt, 33–52. Dordrecht, Netherlands: D. Reidel.
- Lévy-Bruhl, Lucien. 1884. *L'Idée de responsabilité*. Paris: Hachette.
- Lowrance, William O. 1985. *Modern Science and Human Values*. New York: Oxford University Press.
- Layton, Edwin. 1971. *The Revolt of the Engineers*. Cleveland: Press of Case Western Reserve University. Second edition, with a new introduction, Baltimore: Johns Hopkins University Press, 1986.
- McKeon, Richard. 1957. "The Development and the Significance of the Concept of Responsibility." *Revue Internationale de Philosophie* 11 (1): 3–32.
- Mitcham, Carl. 1987. "Responsibility and Technology: The Expanding Relationship." In *Technology and Responsibility*, edited by Paul T. Durbin, 3–39. Boston: D. Reidel.
- Mitcham, Carl. 1994. "Engineering Design Research and Social Responsibility." In *Ethics of Scientific Research*, edited by Kristin S. Shrader-Frechette, 153–168. Lanham, MD: Rowman and Littlefield.
- Mitcham, Carl. 2005. "Responsibility: Overview." In *Encyclopedia of Science, Technology, and Ethics*, 1609–1616. Detroit: Macmillan Reference.
- Niebuhr, H. Richard. 1963. *The Responsible Self*. San Francisco: Harper and Row.
- Ravetz, Jerome R. 1971. *Scientific Knowledge and its Social Problems*. Oxford: Clarendon Press.
- Sinsheimer, Robert L. 1976. "Recombinant DNA: on our Own." *Bioscience* 26 (10): 599.
- Sinsheimer, Robert L. 1978. "The Presumptions of Science," *Daedalus* 107 (2): 23–35.
- Taylor, Charles. 2007. *A Secular Age*. Cambridge, MA: Harvard University Press.
- Teller, Edward. 1947. "Atomic Scientists Have Two Responsibilities," *Bulletin of the Atomic Scientists* 3 (12): 355–356.
- Whitbeck, Caroline. 1998. *Ethics in Engineering Practice and Research*. New York: Cambridge University Press.

>> In the techno-lifeworld, responsibility has become a pervasive theme, and new obligatory form of good. This is differentially manifested in the law through strict liability for technological products; in Christian theologies that emphasize responding to God in a secular age; in engineering, professional responsibility for public safety, health, and welfare; in the social responsibility of scientists to consider the implications of research; and through increased philosophical attention to responsibility as a concept in ethics. The experience of living with the expanded powers of the techno-lifeworld calls for enlarged measures of responsibility, thus inserting into human experience special and unique burdens that can be formulated as a duty *plus respicere*, to exercise more conscious reflection in human action than has ever previously been the case.

CARL MITCHAM

Colorado School of Mines

ETHICS ISSUES RAISED BY HUMAN ENHANCEMENT

Andy Miah

INTRODUCTION

Over the last 30 years, the evolutionary status and trajectory of the human species has been brought into question by rapid progress within the fields of nanotechnology, biotechnology, information technology and cognitive science. These NBIC sciences suggest ways in which technology could allow people to make themselves “better than well” (Elliot 2003, Kramer 1994) by using human enhancements to transform what we regard to be species-typical functioning for human beings. Such enhancements may include brain modifications to increase memory or reasoning capabilities, alterations to biochemistry to increase resilience to the environment or the creation of new capacities. It may also include living for much longer or alterations to our appearance to make us more attractive or more aesthetically distinct.¹ Such interventions as laser eye surgery that can yield better than perfect, high definition vision, or the use of cognitive enhancers, such as Ritalin, to help students study for exams, each suggest how humanity is entering a transhuman era, where biology is treated as something to be manipulated at will, depending on one’s lifestyle interests rather than health needs. Yet, questions remain

¹ For a comprehensive overview see Savulescu et al. (2011).

about how far society is prepared to accept these kinds of applications and what ethical issues they create.

The prospect of human enhancement has attracted considerable attention from scholars, the media and policymakers alike, each of whom have debated the ethical and moral desirability of such circumstances and the practical social and legal implications arising from a culture of human enhancement. Indeed, over the last 10 years alone, various governments have investigated these prospects, interested in understanding the magnitude of these trends for society. One cannot understate the breadth of these implications, as both advocates and critics of human enhancement agree that they will change fundamental parameters of human existence (Fukuyama 2002, Harris 2007). In a world where achievements are brought about more by technological intervention than effort, the entire system of justice that underpins society is brought into question. Alternatively, if a patient can ask a doctor to ensure that their medicine has an enhancing rather than simply reparative outcome, then the role of medicine and health care, along with the relationship between the doctor and patient changes considerably.

Determining the legitimacy and desirability of such changes is crucial to a global economy, as the transformation to health care and welfare that is implied by human enhancement has critical implications for how society is organized. Thus, healthier people will mean the prospect of longer lives, which in turn will mean a growing ageing population. These circumstances will have an impact on various social provisions and the broader economic infrastructure of a society, requiring people and governments to revise their expectations about the duration of the working life, the economics of pension funds, and the provision of health insurance, among other things. It may influence what kinds of lives people lead, such as when they have children, or what kind of career they pursue. Thus, the consequences of human enhancement pervade all aspects of modern life, creating

demands on social systems that may bring about their collapse, if they are not rethought. This is why it is important for governments to understand the rise of human enhancement technologies, in order to address their overarching implications for the future of humanity.

A number of important contributions to this debate have already been made from such diverse fields as philosophy, social science and public policy. As such, it is helpful to summarize some of the key concerns articulated by these contributions, before offering a critique and re-articulation of the key priorities that should concern future ethical, social, legal and policy debates in this area. However, before doing so, the first part of this essay provides some conceptual clarity on different types of human enhancement. This clarity helps to establish some overarching parameters to the ethical debate over which kinds of enhancement technology are appropriate for people to use.

WHAT ARE HUMAN ENHANCEMENTS?

One of the difficulties with the human enhancement debate is the lack of consensus around what counts as an enhancement. It is often argued that the ethically questionable practice of human enhancements may be distinguished conceptually from the more accepted practice of human repair or therapy. However, it is misleading to suggest that medicine has always confined itself to just repair, or that there is agreement on the acceptability of how medicine is typically practiced today. Indeed, contemporary medical practice draws on a definition of health that is informed by the broader socio-cultural conception of *well-being*, which acknowledges that health is not always adequately described by examining just physiological deficiencies. Instead, a lack of good health may be explained by lifestyle conditions, which require social rather than medical solutions. Alternatively, such practices as in-vitro fertilization to

treat infertility, abortion to avoid the possible psychological trauma of bearing a child, or physician-assisted suicide to ease the suffering of people at the end of the lives, are each examples of medicine applying a definition of health that transcends merely biological dysfunction. Yet, there is ongoing controversy about whether these interventions are consistent with the proper role of medicine.

The consequences of human enhancement pervade all aspects of modern life, creating demands on social systems that may bring about their collapse, if they are not rethought

Equally, it is untrue to presume that the conditions treated by therapeutic medicine can be detached from some lifestyle that a patient has led. Whether it is alcohol consumption, sunbathing, smoking, lack of exercise, or playing high-risk sports, the lives people lead contribute to their eventual need for medical care. To this end, the proper role of medicine is the business of making people well for a particular kind of life they wish to lead, rather than just making people healthy in some abstract sense. A dancer may need physiotherapy to treat an injury arising from their profession, or a student may need cognitive enhancers to address anxiety caused by the prospect of difficult exams. While not each of these examples can be treated equally in terms of whether they justify medical attention, they reveal how it is not possible to consider medical interventions that are divorced from the environment within which a medical risk becomes a health care need.

In this respect, one may identify two different definitions of health, one which relies on *biomedical* markers of medical need, and another which draws attention to the *biocultural* characteristics of ill health. For the former, one may be more inclined to discuss the biological indicators of

good or ill health, while the latter will discuss health as a social concept, whereby medical intervention is explained with recourse to the social and cultural conditions that determine an assessment over whether a subject is leading a healthy life or in need of medical assistance. Good examples of this are various forms of disability which, beyond the medical treatment of the condition, require various societal changes to ensure that the debilitating effects of the condition are not exacerbated by feelings of exclusion or an inability to function within the social world.

In sum, it is erroneous to suggest that medicine simply treats people therapeutically, insofar as this can be contrasted with enhancement. Indeed, medicine undertakes preventive measures with healthy subjects, before any health care need is apparent, as in the case of childhood inoculations. These examples reveal how humanity is generally predisposed to pursue new forms of medical intervention that can prolong survival. However, these instances are not generally the subject of debates on human enhancements. To get closer to this concept, it is useful to consider another example—the fluoridation of tap water, which is commonly practiced in numerous countries which aim to reduce levels of teeth and gum decay. Over the years, the amount of fluoride within the drinking water of many countries has risen, as dietary habits and ingredients, along with dental hygiene standards, may have decreased. However, the more general point is that, from a purely economic perspective, one of the most effective contributions a nation may make to the oral health—and thus general health—of its citizens it is to include fluoride in the water. In each of these examples, we encounter medical interventions that test the boundaries between therapy and enhancement and each reveals that the line is far from clear.

Additionally, one may argue that the natural trajectory of medical practice leads towards a culture of human enhancements, as humans are rationally predisposed towards living long, healthy lives for as long as possible.

Indeed, society's sympathy towards suicide is due to the belief that such desires are contrary to what rational people ought to value. To put it another way, any person who values life will value its continuation and the pursuit of means that are likely to promote this possibility. Such means may be broadly defined as human enhancement technologies. Thus, the pursuit of these goals is consistent with the philosophical premise that a life worth living should be sustained for as long as is feasible.

The examples of fluoride in tap water or childhood inoculations also reveals the delicate balance required to ensure that any particular enhancement optimizes rather than harms humanity. Too much fluoride in the tap water would have a harmful effect on people's health, as indeed could protection against a disease by vaccination which, in some countries, may lead to a vulnerability towards another condition. Indeed, these examples are also characterised by a lack of consensus about their value. For instance, the fluoridation of water is considered by some to be unethical insofar as it prohibits the consumer to exert any degree of choice over the enhancement. In part this is why some countries have even decided to stop adding fluoride to tap water out of concern about its efficacy.

In any case, these examples are still quite far removed from what many people typically regard to be the core content of the human enhancements debate, which is the improvement of biological conditions to such a degree as to bring into question whether the modified people are human at all. This may involve the creation of new human capabilities that are achieved only by the technology, or the increased functionality of already familiar human capabilities. Each of these prospects suggests how technology may transform the species in such a way as to create a new, post-human era and the presumed difference between such persons and today's populations, along with the expected loss of humanity that many have argued that it implies, is the locus for ethical concern. This is not to

say that all forms of human enhancement involve scientific or technological manipulation. After all, some of the most effective means of enhancing humanity have very little to do with direct biological manipulation, such as education, a good diet or exercise.

In response, it is important to acknowledge how the biological characteristics of the human species have always been changing. Beyond the broad evolutionary claim, the last 100 years have brought about dramatic changes in living conditions that have transformed what kind of health people can expect to enjoy. In short, what is considered to be normal health today is radically different from what it was 200 years ago. Today, people in developed countries can expect to survive many previously life-threatening conditions, while life expectancy and even such biological parameters as height have changed considerably. Many of these changes have become constitutive features of modern medicine and have been achieved by scientific discoveries or insights that are again far removed from debates about human enhancement, such as knowledge about sanitation and hygiene. Yet, these examples have certainly enhanced humanity, bringing into question, again, where one focuses the current debate about the ethical concerns arising from human enhancements.

There is also a normative challenge with the term human enhancement in that it may imply an evaluative judgment about something having been improved when, in fact, this claim is contested. Thus, while we may rightly conclude that having healthier teeth is, in one sense, an improvement of our life, the diminished autonomy that it implies by a nationwide fluoridation of drinking water may be regarded as, on balance, an unreasonable cost. To this extent, it is a value judgment, rather than an appeal to facts, as to whether the modification can be rightly regarded as an *enhancement* of humanity or not. Indeed, this concern appeals to the idea that it is not life circumstances in themselves that matter, but the

means by which we come to enjoy them, a theme that will be explored further in the subsequent section.

Some of the most effective means of enhancing humanity have very little to do with direct biological manipulation, such as education, a good diet or exercise

In sum, various authors have attempted to derive a model for conceptualizing human enhancements. For example, Conrad and Potter (2004: 184) study human growth hormone and identify three possible uses “normalization, repair and performance edge.” Yet, often the debates about futuristic scenarios where humans have become some very different kind of species are conflated with the more immediate ways in which the therapy-enhancement distinction is creating new forms of wellness that, nevertheless, disrupt what we consider to be normal. Miah (2008) proposes such a typology of human enhancements that is divided into three principle categories, with further sub-divisions in the final category. This typology is modified in the following version, which builds on the three main categories, with further elaboration on their differences and, subsequently, clarification on how they assist in the ethical debate about human enhancements.

1. Enhancing Health-Related Resilience (e.g. fluoridation of tap water or inoculations)
2. Enhancing Lifestyle Functional Capacities (e.g. breast enhancements, height enhancement)
3. Enhancements Beyond Species-Typical Functioning
 - a. Extending Human Capabilities (e. g. height enhancement)
 - b. Engineering New Kinds of Human Function (e. g. changing color, flight)
 - i. Within the realm of known biological possibility (e. g. flight capability)
 - ii. Outside of known biological possibility (e. g. capacity to live in non-gravitational environments)

Importantly, this typology does not map neatly onto degrees of ethical concern. However, it does endeavour to convey a continuum of enhancements that begins with examples that are closely aligned with how medical practice operates today, towards interventions that may be practiced in the future. Equally, any single example of a technology may fit into any number of the categories depending on how it is used. For example, a prosthetic leg may provide a disabled person with mobility (categories 1 and 2 are engaged) or allow them to run faster than the biological counterpart (category 3).

Among each of these categories and sub-categories there is considerable ambiguity over where a specific intervention might fit. More specifically, any single case of an intervention could fit into any one of these categories, depending on its precise application. Consider an example that fits into either category 1 or 2: *physical exercise*. In this case, while it is commonly thought that exercise is generally good for people, one might still question the appropriateness of a doctor's advocacy of exercise to a patient, as either a health-related resilience enhancer, or an enhancer of lifestyle functionalities. After all, the evidence to support the claim that exercise optimizes health is complex. For instance, there are differences of opinion about how much exercise is optimal. Equally, society's need to reduce the burden of health care may lead to coercive tactics to ensure people exercise and this may be regarded as unethical. Thus, the development of health credits in the United States, which are connected to the amount of physical activity an individual undertakes, may be seen as an unreasonable imposition on an individual's life. However, there would be little sense in discussing whether it is ethical or not for a person to choose to undertake exercise at all, should they believe it to improve their lives. Alternatively, denying treatment on the basis of not having led a lifestyle that deserves medical assistance—as in the case of decisions over rationing and smoking—may infringe the individual's right to health care without prejudice.

In conclusion, this typology reveals the differences between ways in which one may conceptualize enhancements, beyond a simple binary distinction between therapy and enhancement. This may assist debates about the ethics of human enhancement by restricting discussion to only the relevant implications, rather than drawing too heavily on the broader rhetoric of futuristic transhuman scenarios.

THE ETHICAL ISSUES

Ethical debates about human enhancements have taken place within various bodies of literature, including bioethics, animal ethics, environmental ethics, political science and the social scientific study of medicine. Each of these areas approach the significance of human enhancement from quite different perspectives. For example, Dvorsky (2008) argues that the capacity to enhance human biology must also imply an obligation to “uplift” the capacities of other animals as well. Alternatively, bioethicists have argued that the possibility of human enhancement requires us to consider what sorts of people there should be, alluding to the prospective use of germ-line genetic modifications or selection. To this extent, there is no single set of ethical issues that is engaged by all possible forms of enhancement. For example, enhancing an athlete’s performance in sport may raise very different ethical concerns compared with enhancing a child’s height to ensure it reaches a level that is closer to a population’s average height. Alternatively, genetic enhancement is likely to have different implications from using a pharmaceutical product or a prosthetic device to yield a similar effect. Indeed, debates about the ethics of human enhancement are already so nuanced as to be focused on specific kinds of enhancement, such as neurological, biochemical, or physiological modifications.

As such, an overview of the ethics of human enhancement must first take into account the fact that one can, at best, provide only a compendium of

general concerns that may be engaged by specific examples of enhancement. Equally, while some ethical concerns involve clearly identifiable stakeholders, for others the possible interested parties are much more diffuse. For example, if asking whether a doctor is acting ethically when enhancing a patient, one might refer to their professional code of ethics to assist in answering this question. Very few other stakeholders are relevant to this moral dilemma, though it may also involve appealing to the moral conscience of the doctor. In contrast, if asking whether germ-line genetic enhancement is morally sound, then it may be necessary to consider the interests of the patient along with other members of her family, community, society, and perhaps even the entire world's population—along with future generations. This is because such interventions may have an effect on a much wider population, due to the possible transference from one generation to the next that such modifications imply.

Furthermore, it is necessary to clarify the relationship between *moral* and *ethical*, as they are often conflated within debates about human enhancement. Generally speaking, one would discuss ethical issues in the context of a specific practice community, such as the ethical code underpinning medical practice. Alternatively, morality is concerned with broader questions of value for which there may be no formal codes that are broken. For example, one might have a general moral concern about the prospect of a society comprised of genetically enhanced people, though this may be come about without violating any specific ethical code. In cases of moral violations, it is more difficult to determine whether any specific principle has been violated by an action, or whether the moral concerns arising from this outweigh the benefits that may arise from it. To this end, it is more difficult to derive an uncontested answer as to what people ought to do, which is why a common response to difficult ethical dilemmas is to rely on consensus of opinion, via some form of representative democratic decision. Nevertheless, one may find

assistance in deriving ethical principles by studying human societies and the norms that have emerged around behaviour within culture. Through subjecting such discoveries to a process of philosophical scrutiny, one may develop a clearer sense of the ethical principles that should govern decision-making within practical contexts. Moreover, by examining the practice communities where ethical decision-making takes place, it may be clearer which of these principles are most salient. In this respect, effective ethical reasoning requires taking into account both normative ethical principles and practical ethical decision-making.

Debates about the ethics of human enhancement are already so nuanced as to be focused on specific kinds of enhancement, such as neurological, biochemical, or physiological modifications

Given these complications, how ought one distinguish between types of ethical issue related to human enhancement? One approach is to treat human enhancements as any other form of biological modification and subject them to the same ethical scrutiny of the practice that facilitates the enhancement. For example, if the enhancement involves using autologous blood transfusions as a way of increasing stamina for an athlete who is running a marathon, then one may refer either the ethics of sports practices, or the ethics of medical practice to determine whether they are acceptable. Thus, one may refer to the ethical principles of sports or medicine, to ascertain whether the treatment can be undertaken without jeopardizing other values. However, one may also argue that the use of human enhancement is so different from all other forms of biological modification that it requires a completely different ethical framework from which to determine their acceptability. Such an argument is based on the view that traditional medical ethical principles have been framed by the minimal interest to make people well, whereas the goals of enhancement are quite

different. However, this *exceptionalist* approach encounters a practical challenge in that many of the tools of human enhancement are regulated by those who hold the former view, whereby any use of a medical intervention for a non-medical purpose must satisfy the regulatory expectations of standard medical care. In this respect, it is unreasonable to expect a radical overhaul of this highly established system of governance over the use of new or established medical substances, products and methods. Indeed, change in this respect is even more unlikely when one takes into account the likely fragility of enhancements, which may require ongoing medical monitoring and possible correction when used.

An alternative route towards establishing an ethical framework of human enhancements is to examine how the debate has taken place thus far within a range of intellectual spheres—both theory and practice—and to provide some form of synthesis of the arguments and concerns. One of the challenges with this approach is that there is no consensus over which ethical issues are the most salient. Moreover, relying just on what has already been identified as a key ethical concern may overlook an essential issue that has yet to be discovered. Indeed, this approach has led to specific studies focusing on specific ethical concerns, to the omission of others. Nevertheless, a review of the literature reveals clear trends in what are seen by many commentators to be the key concerns and it is useful to build on this previous research. This is most adequately summarized in Allhoff et al. (2009), which frames the ethics of human enhancement under the following categories: Freedom and Autonomy, Fairness and Equity, Societal Disruption, Human Dignity and Good Life, Rights and Obligations, Policy and Law (*ibid*). Yet, one of the difficulties with this approach is that it does not distinguish between the different levels of decision-making that operate around ethical dilemmas, from the individual to the societal.

In response, the following sections provide an overarching analysis of the various approaches to articulating the ethical issues that are engaged by

human enhancements. It is structured in terms of three primary categories, which provide a useful heuristic through which to identify types of ethical concern. The assumption is not that these three domains can be neatly separated, but that there is value in delimiting ethical issues in terms of what Singer (1981) describes as the “expanding circle” of moral concern. Thus, separating these concerns out into distinct units may assist in clarifying where the ethical dilemma resides and what kind of action—individual, professional or societal—is required. An *individual* ethical issue relates directly to the interest of the subject who is undertaking the enhancement themselves. The *professional concerns* category relates to the individual or institution that is facilitating the enhancement, whereby there may be formal guidelines over ethical conduct. Finally, the *societal concerns* relate to the broad interests of society, which may be frustrated by the adoption of human enhancement.² Within each of these categories, individual moral concepts are engaged in slightly different ways. For instance, an individual may consider whether they find it morally just to utilize cosmetic surgery for personal enhancement, while an entire population may consider whether it will improve society to permit such surgery. In each case, the balance of reasoning will differ considerably, while the ethical principle may remain the same.

Individual Concerns

It is uncontroversial to claim that there are good reasons for why human beings seek to enhance themselves throughout their lives. Indeed, as noted earlier, humans have always sought to enhance themselves, where

² Society may encompass both the way in which collective interests are organized around specific governmental structures, or the way in which we might refer to the collective interests of multiple life-forms.

some of the more familiar methods include education, exercise or a good diet. Undertaking these pursuits may lead to much greater capabilities than one would otherwise have and may also lead to an advantage over those who choose not to indulge in such practices. To this end, what is it, if anything, that distinguishes these accepted methods of enhancement from those that cause moral concern, such as using drugs or genetic modification? First, it is important to note that it is inadequate to devise moral rules that apply to people in general. Rather, people always operate within different social contexts, where different moral and ethical expectations exist. Thus, a university student may also be a musician, a youth group leader for a religious community, and a part-time sales assistant at a retail outlet. In each of these spheres, the moral expectations may differ, while there may also be a sense of there being an abstract self-identity that operates across each of these domains.

There are not always formal ethical codes that govern our existence. Instead people make decisions based on loose, often poorly defined moral frameworks, which nevertheless may guide their actions and organize social conduct

This is an important realization to take into account when attempting to determine what may be an ethical choice for someone, as any action may violate the ethical expectations of one practice, while not the other. Equally, it would be naïve to suggest that this university student can make general decisions about their well-being without being mindful of how it affects their ability to operate within any one of these practices. For example, using a cognitive enhancer to pass an exam may violate a university code of ethics, but it may be considered an enrichment of his performance within the orchestra, where there is greater ambivalence over the whether such enhancement is ethical. These nuances that define

individual lives are an important reminder that there are not always formal ethical codes that govern our existence. Instead people make decisions based on loose, often poorly defined moral frameworks, which nevertheless may guide their actions and organize social conduct.

Means Matter

One common argument that is used to challenge the value of human enhancement is to claim that the *means* by which people achieve their goals in life matter. As such, if one adopts a technological shortcut to achieve some goal, then this may undermine its value. For instance, if one is a mountaineer and decides to reach the summit of the mountain by using a helicopter rather than one's body, then not only has the value of the achievement been undermined, but we might not even claim that a mountain has been climbed at all. This argument extends to many other forms of enhancement, from using coffee to increase alertness each day, to using cosmetic surgery to improve one's appearance. Yet, in these cases the degree to which these means matter varies considerably. For instance, if drinking coffee allows a scientist to reach a discovery that otherwise she would not have made, then we are unlikely to be concerned about this fact. Rather, our interest will be in the fact that a discovery has been made at all. Our assessment may be different if the scientist took illegal drugs to make the same discovery, but this would still not detract from the value of the findings. Equally, if a person uses botulinum toxin (botox), or any form of cosmetic surgery to improve their appearance, in order to increase their chances of attracting interest from others—whether it is romantic or professional—then this is unlikely to arouse ethical condemnation. Certainly, it may invite moral criticism in its giving primacy to the value of appearance over other qualities, such as personality. However, in this area there exists considerable cultural differentiation, which limits the degree to which one would chastise such actions as being morally problematic. For, if

one is willing to criticise the use of botox, then one may need also criticise other attempts to improve personal appearance, such as wearing expensive clothes, makeup or even smiling.

In each of these cases—the mountaineer and the botox user—there are no ethical rules that are violated, only moral concerns that may be engaged, or an ethos that may be breached by the modification. Mountaineers are not defined by a code of ethics, but there is an ethos in place whereby expectations exist about how members practice the activity. To this end, it is unlikely to be a grounds for some form of prohibitive action from the community. Rather, there would need to be more serious harms arising to others for such action to be warranted.

An Authentic Life

Closely allied to the concern about how one attains achievements is an ethical issue that has been articulated often in relation to psychopharmacological substances, such as Prozac (Elliot 1999). In these cases, it is argued that certain uses may be morally undesirable forms of enhancement, as they transform a person into somebody else and that this disconnection is logically undesirable. Such arguments are discussed in Elliott (1999), The President's Council on Bioethics (2003) and DeGrazia (2003). This may have something to do with the sociological concept of selfhood, which locates meaning within our lives in the various ways in which people cultivate their identities that, in turn, become the locus for moral concern. Indeed, Riss et al. (2009: 495) discover that people are “much more reluctant to enhance traits believed to be more fundamental to self-identity... than traits considered less fundamental to self-identity.”

This conclusion reinforces the earlier claim that there is no single ethical principle about any particular enhancement that one may appeal to in

order to determine what may be ethically appropriate for people in general to do. After all, where one person may value their extroverted personality, another may loathe it. Nevertheless, to the extent that a life is lived through a drug or other form of enhancement which corrupts some notion of individual will or intentionality, then one may argue that such a life is less meaningful than a life without such mediation. Yet, this is not to say that it has no meaning at all, or that lacks such a degree of meaning as to be not worth living.

Open Future

A further reason for caution over any particular human enhancement is that it may unreasonably narrow one's prospects in life, violating what Joel Feinberg (2007) discusses as the principle of preserving an "open future." While I discussed earlier the uncertainty over whether or not biological modifications can legitimately be called enhancements, this concern alludes to the fact that an enhancement may have a limited life, or may improve only a fixed number of lifestyle choices one makes. This concern is similar to what some authors have also discussed in relation to the problem of irreversibility. In this case, whether an enhancement can be reversed may be reason for caution against its use, assuming that one may hold different aspirations in the future that are disabled by the enhancement.

The concern over an open future has similar scope to what some philosophers refer to as the principle of *prudence*, whereby the preferred decisions one ought to make in life are those that are more likely to lead to long-term benefits, rather than short-term gains. Thus, if a human enhancement were to promote success early in life, but lead to serious disability later, then one may caution against its use. A typical example of such enhancements may be the use of drugs that elicit a short-term

gain—perhaps stimulating creativity or physical strength—but which may also imply long-term health risks. In these cases, Feinberg argues that modifications which violate the principle of preserving as open a future as possible should be restricted.

Morphological Freedom

Despite these various concerns, some authors have argued on behalf of what Sandberg (2001) describes as “morphological freedom,” a concept that should trump other ethical preoccupations. In this case, the argument favours autonomy, arguing further that it should be a human right to enhance one’s biology, rather than something that the state should aim to restrict.

In closing, it is important to recognize that individual actions take place within specific social contexts, which can, in turn, dictate how one evaluates the moral content of any human enhancement. This may appear to be a morally relativist position, but it in fact acknowledges the possibility of universal moral rules, while recognizing that not all decisions are taken within the same conditions. This is best explained by providing two examples where the same kind of human enhancement is used. Thus, consider the creation of a new prosthetic leg, which may be used by two different people, one is an elite athlete, the other is not. If one assumes that, in both cases, the prosthetic device can make a person run much faster than any other person—whether or not they are considered disabled—then it is immediately apparent how, for the athlete, this may pose an ethical dilemma which is not evident for the non-athlete. The latter is interested in functionality, day-to-day living and is not in direct competition with any other person who may feel that the new limb creates some form of unfairness. However, the athlete is engaged in a practice whereby the interests of the other participants may be frustrated

by the use of this new technological device, in part because a prior agreement had been made between parties about how they would participate.

If one extends this case to other enhancements, it quickly becomes apparent how the conditions of the debate change. For example, consider the use of a cognitive enhancer, such as modafinil, which is used to treat narcolepsy, but which may be used in a non-therapeutic way to keep people alert for longer in periods of extreme tiredness. In this case, the athlete might, again, be undertaking a morally dubious practice, if they use it to improve their performance in competition. Yet in this case, the non-athlete may *also* be violating some sense of social justice, since it is difficult to claim that they are not, in some broad sense, in competition with other people in society. Whether the non-athlete is going to work a day job in a bank, or is a Grand Chess Master, the wonder drug disturbs the conditions of the competition whereby those who are not using it are likely to be placed at a disadvantage. The banker may benefit from the enhancement in terms of winning promotion within her job or by receiving large annual bonuses, whereas the Chess Master may win global renown through beating all other opponents. Each case is morally relevant and morally problematic.

The context of the ethical debate changes further when considering, say, the enhancement of military personnel, where gaining an advantage over the opposition is less of an ethical matter and more of a strategic necessity. In this case, the ethics of war may permit the use of such enhancement technologies, but there may be good reasons for why the state should not permit its government to require soldiers to undertake such modifications, since this may undermine the soldier's personal autonomy. Yet, one may argue that, by necessity, military personnel operate within a context where there is an acceptance of diminished autonomy—following orders etc.—perhaps justifying such use. Moreover,

the use of drugs that would otherwise be unethical to give to a healthy subject may be life-saving in a military context. For example, a stimulant may allow a soldier in a period of sleep deprivation to continue their mission or avoid capture. In this case, one may debate the legitimacy of their having been placed in this situation, but when faced with the circumstances, the ethical compromise of using a drug versus the fact of being captured seems a reasonable trade-off.

There are many examples of human enhancement where the perceived benefits depend on the context. As such, one of the challenges in knowing whether it is wise to enhance is having certainty over the kinds of lifestyles that people may seek to lead. For instance, the agonizing practice of leg-lengthening that is increasingly utilised by Chinese citizens could be valuable if one aspired to be a Chinese politician—which stipulates a minimum height of 5ft 7in for men and 5ft 3in for women (Watts, 2004)—but has limited value if one aspires to be a jockey. While there are undoubtedly very few Chinese politicians who subsequently seek to become jockeys, it is important to recognize that many enhancements will also prohibit the enjoyment of other lifestyle opportunities.

Professional Concerns

Human enhancements that rely on some form of scientific or technological adaptation also engage a range of professionals, whose conduct is governed by strict ethical codes. This may encompass the way in which research and development is underpinned by procedures that are necessary to follow before any particular technology can be used within society. Indeed, this is a crucial dimension of the human enhancement debate, as many of the ways in which people could enhance themselves will involve adapting interventions that are otherwise restricted to just

therapeutic use by established regulatory authorities. Thus, in order for enhancement to be possible, it will be necessary to achieve consensus on the value of applying an otherwise medical intervention to a non-therapeutic or enhancing context. Clearly, this has taken place in some areas of life, particularly cosmetic or reconstructive surgery, which is a thriving commercial industry, though it is less clear that similar decisions would be made any time soon in many other areas, such as the use of pharmaceutical products. Indeed, the challenge here is that one of the cornerstones of medical research is that it does not involve healthy subjects. In the case of enhancement, it may be necessary to develop products that are tested with otherwise healthy subjects in order to ensure they are safe for use. Alternatively, enhanced humans may come into being through the use of therapeutic interventions—that is, for unhealthy subjects—whereby the intervention is able to elevate the level of functionality beyond the biostatistic norm.

One of the challenges with deciding whether a professional is in violation of their code of ethics when facilitating human enhancement is that the merit of the enhancement is ambiguous. For instance, it is reasonably uncontroversial to say that laser eye surgery is both beneficent and non-maleficent and that the overall result improves the life of the client/patient. However, even laser-eye surgery has benefits for only a limited number of years after which the ageing process will degrade vision in such a way as to negate the positive effect of the surgery. In this case, there seems a reasonable trade-off. However, if the laser eye surgery were to exacerbate the degradation arising from the ageing process, then its merit may further be brought into question. Here again, one must expect that reasonable standards of safety and cost-benefit analyses are undertaken, but it is for the client to decide which level of risk they choose to accept. In short, in the absence of certainty, individual autonomy is elevated as the guiding principle in such decisions.

Societal Concerns

Perhaps the primary ethical issues that govern the use of human enhancements relate to the societal governance of their use. Thus, in order for a number of enhancements to be available, it will require a range of decision-makers to develop policy that supports their utilization and will imply a social system whereby people can have affordable access to them. This is true whether the intervention involves a professional facilitator—as in the case of surgery—or is self-induced—as for an over-the-counter pill. In each case, some form of governance is likely, insofar as the effects of the modification are likely to affect the overall health fortunes of the individual.

Of course, if there are no significant harms arising from the enhancement, then this assumption will disappear and an entirely different structure of regulation will be required, if at all. In any case, accepting that societies are likely to set rules to govern the use of enhancements, these decisions will precede most people's decision about whether or not to use them. This aspect is also the reason why the development of human enhancements concerns a global community, as it is increasingly possible for people to undertake medical tourism and simply visit a country where the enhancement rules are more liberal. In such a situation, the ability to maintain a restrictive domestic policy on enhancement may be more socially divisive than permitting its use.

Fairness and Justice

One of the initial concerns that is raised from a societal perspective about human enhancements is how they would be financed and underpinning this concern are questions about fairness and justice. Thus, in a world where national health care systems struggle to provide for populations

and where private health is often criticised to be detrimental to the common good, the prospect of using national funds to enhance people may seem too much of a stretch of resources and, potentially, contrary to the principle of social solidarity. Certainly, one would not expect the needs of people seeking enhancements to trump those who are seeking some kind of medical treatment for dysfunction or suffering arising from a health problem. However, one may argue further that making people better than well and, indeed, ensuring future generations are more resistant to illness, would, in the long term, ease the social burden of health care. On this basis, one may argue that a society cannot afford *not* to enhance humanity. This being true, human enhancements would be offered to all people on a similar basis to how national health care is offered presently, following principles of distributive justice. In turn, this would alleviate the concern about social divisions between wealthy and poor, which may otherwise be exacerbated in a society where enhancements are entirely funded privately. By implication, this system would go some way to avoiding a situation where people are discriminated against on the basis of poor genetics, since enhancements will be available to all. Importantly, this need not mean that everyone must undergo enhancement.

The Yuck Factor

A further societal concern is that changing humanity by human enhancement would undermine some essential quality of our human identity that we would wish to preserve. This may otherwise be described as the argument from *naturalness* (Barilan 2001, Reiss and Straughan 1996, Takala 2004), though there are subtle variations of this argument. Thus, a concern that human enhancement may be contrary to some natural essence may not imply a revulsion for artifice, but it may reveal an underlying intuition that there is something about human biology that

ought not be changed for fear of altering something that corrupts some fundamental part of human identity. Even if the “yuck factor” is difficult to articulate, some philosophers have argued that such a deep-seated intuition has moral weight when deciding whether or not to undertake biological modifications such as enhancements. Notably, Kass (1997) describes this as “the wisdom of repugnance,” though it is a view that many have criticized. Probing further into this concern, one finds a reliance on such concepts as “human dignity” which are invoked to claim that there is a fundamental quality to human sensibility that must both be preserved by elevating certain rights, but which may also be violated by altering biology too much (Fukuyama 2002).

There are other moral concerns that are often folded into this fear over biotechnological change, notably the view that undertaking such changes is akin to “Playing God.” In this case, the moral anxiety describes a concern that undertaking such changes oversteps some sense of the delimited authority of humanity over its evolutionary trajectory. In short, the argument states that since humans have no oversight in their own evolutionary trajectory, it would be foolish to attempt actions that would, as Harris (2007) describes it, enhance evolution. Arguments of this kind are often—mistakenly I would argue—discussed in the context of eugenics and the idea that state-wide policies to engineer people would invoke the kinds of moral monstrosities that are associated with Nazi Germany, human experimentation and the general disregard for certain kinds of people over others.

Practical Concerns

There are a number of practical ethical problems associated with human enhancement that deserve special mention. For example, if societies are unable to implement effective regulation of human enhancements or

reasonably fair opportunity of access, then this may provide a moral reason for restricting use. One form of argument in this area is the “slippery slope” argument, which states that it would be morally undesirable to provide permission to undertake the desirable action X, if the regulatory structure is unable to prevent claims to also undertake the socially undesirable action Y (Burg 1991; Resnik 1994). Equally, an inability to restrict the scrutiny of the state may be a further reason for moral concern over enhancements. For example, the use of memory enhancements may be desirable for some people, but it may be undesirable to permit the state to require an individual to undertake a memory enhancement in order to pursue some national interest. Wagenaar (2008) discusses this case in the context of judicial hearings where there may be an argument to favour forced memory enhancements in order to ascertain the truth about a crime. Finally, there may also be reasons of safety that lead to restrictions of use, such as the levels of toxicity that may be released into the environment when using human enhancements or the possible, unforeseen risks associated with any particular use.

The Zero Sum Problem

A final concern relates to the overall value of human enhancements, though not from an individualist perspective. Indeed, while it is possible that increasing height or speed could yield benefits for the individual concerned, in a society where all people undertake similar enhancements, then the overall benefit is nullified. Instead, the long-term consequence of this permissive enhancement culture is simply a shift in what is biologically normal. In an economy where having exceptional talents or capabilities is required in order to flourish, the eventual outcome of a society where everyone has access to enhancements is akin to a zero-sum game, where there is little change to the overall, relative fortunes that people enjoy.

Of course, not all enhancements are like this. A world where everyone is more intelligent will have a cumulative benefit for society, unless of course there is a trade-off between characteristics, say where increased capacity for logic is to the detriment of an ability to empathize with people or where altruism decreases. While there is no evidence to support this concern, it is important to be mindful of the complexity of some neurological constructs—such as intelligence—which may imply improving the functionality of a number different forms (emotional intelligence, rational intelligence), before one can reasonably claim that it has been improved.

CONCLUSION: WHAT SHOULD WE DO?

To conclude, there remain a number of practical and moral obstructions to the widespread use of many human enhancements. Many cultures still struggle to regulate the health care system for the purpose of making people well and this should provide caution to those who consider there to be a simple route towards an effective regulation of human enhancements. When establishing ethical guidelines, it is crucial to clarify the perspective from which the question is being asked, in order to understand the breadth of the ethical concern invoked by human enhancements and the scope of answers. If the matter is of personal morality alone, then it will not be necessary or ethically appropriate to involve professionals within such choices. In turn, a matter that concerns society at large should take precedence over individual morality.

At all levels, it is crucial to establish some general principles that govern the ethical conduct of human enhancement. These should involve widespread, independent consultation and investment into research principles. Equally, one may derive some minimal conditions of ethical practice that are informed by other forms of medical intervention, such as

the promotion of autonomy, concern about justice and welfare and so on. Finally, perhaps the most pressing issue is the degree to which the use of human enhancements requires a global response, rather than just domestic policy. While such work has become research leadership in a number of countries around the world, there is still much more to achieve before a clear sense of the global implications of human enhancement has been achieved, as well as a reasonable strategy has been formulated.

BIBLIOGRAPHY

- Allhoff, F., P. Lin, J. Moor and J. Weckert. 2009. "Ethics of Human Enhancement: 25 Questions and Answers." *Studies in Ethics, Law, and Technology* 4 (1).
- Barilan, Y. M., and M. Weintraub. 2001. "The Naturalness of the Artificial and Our Concepts of Health, Disease and Medicine." *Medicine, Health Care and Philosophy* 4 (3): 311–325.
- Conrad, P., and D. Potter. 2004. "Human Growth Hormone and the Temptations of Biomedical Enhancement." *Sociology of Health and Illness* 26 (2): 184–215.
- Burg, W. van der. 1991. "The Slippery Slope Argument." *Ethics* 102 (1): 42–65.
- DeGrazia, D. 2003. "A Reply to Bradley Lewis's 'Prozac and the Post-human Politics of Cyborgs.'" *Journal of Medical Humanities* 24 (1/2): 65–71.
- Dvorsky, G. 2009. "All Together Now: Developmental and Ethical Considerations for Biologically Uplifting Nonhuman Animals." *Journal of Evolution and Technology* 18(1): 129–142.
- Elliott, C. 1999. *A Philosophical Disease: Bioethics, Culture and Identity*. London: Routledge.
- Elliott, C. 2003. *Better Than Well: American Medicine Meets the American Dream*. New York and London: W. W. Norton and Company.
- Feinberg, J. 2007. "The Child's Right to an Open Future." In *Philosophy of Education: An Anthology*, edited by R. Curren. Malden, MA: Blackwell.
- Harris, J. 2007. *Enhancing Evolution: The Ethical Case for Making Better People*. Princeton, NJ: Princeton University Press.
- Fukuyama, F. 2002. *Our Posthuman Future: Consequences of the Biotechnology Revolution*. London: Profile Books.
- Jeungst, E. T., R. H. Binstock, M. Mehlman, S. G. Post and P. Whitehouse. *Biogerontology, "Anti-Aging Medicine" and the Challenges of Human Enhancement*, Hastings Center Report, July-August, 21–30.
- Kass, L. 1997. "The Wisdom of Repugnance." *The New Republic* 216 (22): 17–26.
- Kramer, P. 1994. *Listening to Prozac*. London: Fourth Estate.
- Miah, A. 2008. "Engineering Greater Resilience or Radical Transhuman Enhancement." *Studies in Ethics, Law and Technology* 2 (1): 1–18.
- President's Council on Bioethics and Leon Kass. 2003. *Beyond Therapy: Biotechnology and the Pursuit of Happiness*. Washington, D.C.: President's Council on Bioethics.
- Reiss, M. J., and R. Straughan. 1996. *Improving Nature?: The Science and Ethics of Genetic Engineering*. Cambridge: Cambridge University Press.
- Resnik, D. 1994. "Debunking the Slippery Slope Argument against Human Germ-line Gene Therapy." *Journal of Medicine and Philosophy*. 19 (1): 23–40.
- Riis, J., J. P. Simmons and G. P. Goodwin. 2009. "Preferences for Enhancement Pharmaceuticals?: The Reluctance to Enhance Fundamental Traits." *Journal of Consumer Research* 35 (3): 495–508.
- Sandberg, A. 2001. "Morphological Freedom - Why We not just Want it, but Need it." <http://www.nada.kth.se/~asa/Texts/MorphologicalFre>.
- Savulescu, J., R. T. Meulen and G. Kahane. 2011. *Enhancing Human Capacities*. Oxford: Wiley-Blackwell.
- Singer, P. 1981. *The Expanding Circle: Ethics and Sociobiology*. New York: Farrar, Straus and Giroux.

- Takala, T. 2004. "The (Im)Morality of (Un)Naturalness." *Cambridge Quarterly of Health Care Ethics* 13: 15–19.
- Wagenaar, W. A. 2008. "Enhancing Memory in the Criminal Trial Process." In *Reshaping the Human Condition: Exploring Human Enhancement*, edited by L. Zonneveld, H. Dijkstra, and D. Ringoir. The Hague: Rathenau Institute.
- Watts, J. 2004. "China's Cosmetic Surgery Craze." *The Lancet* 363 (March 20): 958.
- Zonneveld, L., H. Dijkstra, and D. Ringoir. 2008. *Reshaping the Human Condition Exploring Human Enhancement*. The Hague: Rathenau Institute.

>> This article provides an overview and analysis of the ethical issues concerning the use of human-enhancement technologies. It begins by explaining the challenge with defining human enhancements, while also proposing a typology of enhancements that problematizes the distinction between therapy and enhancement. Subsequently, it identifies three levels of ethical concern: *individual*, *professional* and *social*. *Individual* ethical concerns encompass debates about whether the means of achieving goals in life matter, considerations about an authentic life, prudence and promoting an open future, and finally morphological freedom. *Professional* ethical concerns involve the codes of ethics that govern medical practice and the ethics of cultural practices. Finally, *social* concerns encompass fairness and justice, the “yuck factor,” practical ethical issues and the zero-sum objection. Throughout, the paper argues that human enhancement implies a fundamental restructuring of the global economy, bringing about a transformation of how people conduct their lives.

ANDY MIAH

University of the West of Scotland

ETHICS AND EMBRYOLOGY

Mary Warnock

In 1978 the world's first "test tube baby" was born in Oldham, United Kingdom. Until this time most people, apart from doctors, knew little or nothing about embryology; and although years of research and failed attempts to fertilize human eggs in the laboratory preceded this, few people had ever heard of in vitro fertilization. The very first reaction of the popular press was to welcome the baby, Louise Brown, as a miracle; the men who had worked the miracle, Patrick Steptoe, a surgeon, and Bob Edwards, a research scientist, were hailed as heroes. However it soon became clear that the practice of IVF was by no means universally welcomed. Infertile couples were of course given fresh hope (often to be sadly disappointed, for the early success rates were very low, and not all types of infertility were suitable for this remedy); but on the other hand there were many who found the whole idea vaguely distasteful or "unnatural," and the forces of the Roman Catholic Church were violently opposed to it, as were orthodox Jews.

Now that so many thousands of babies have been born by IVF all over the world, it is difficult to think back to that time. It is perhaps especially hard to understand the people who simply reacted with horror or disgust at the 'unnatural' character of the procedure. But right from the start there were those who invoked the analogy of Frankenstein and the monster he

created in the laboratory (a science-fiction figure invented in the 19th century by Mary Shelley); and then, more seriously, there was moral opposition from some, but not all, religious bodies, and especially from the Roman Catholic Church. This opposition has remained, to attach itself firmly to all the further uses of embryology that have been developed in the last 35 years.

Strict Catholics objected to the fact that IVF involved a man masturbating to produce the sperm that was to be inserted into his partner's fallopian tube, and this was a sin that no desirable end could justify. But even those who did not take this purist line had far greater objections, namely that IVF entailed the destruction of human embryos. For first, if the practice of IVF were to become an established treatment for infertility, its success rate must be improved, and this involved experimentation. Research had to be undertaken into the best composition and temperature of the fluid in which the egg was to be fertilized, and into the best way of freezing and storing sperm and embryos, and, later, eggs. Every element in such research meant the destruction of the embryos that had been used in the trials. They could not safely be placed in the uterus of an infertile woman in case they had been damaged. So, as we often heard, they were thrown down the sink, an outrage to the sanctity of human life. Secondly, apart from research, it was then part of the procedure of IVF to give the woman super-ovulating drugs at the proper time of her menstrual cycle so that she would produce a large number of eggs, of which as many as possible were fertilized in vitro. The healthiest were chosen for insertion and the rest destroyed, unless they were offered for donation to a woman who could not produce eggs. So, again, after every IVF procedure there were surplus embryos that would be discarded, contrary to the doctrine of the sanctity of life.

The Roman Catholic Church had always forbidden abortion, so when the time for legislation approached in the late 1980s, they had to make clear

to members of the Church what line they should take on IVF; what, in fact, was to be the moral status of the human embryo alive in the laboratory—an entity, after all, which was new and had never existed before 1978. Thus in 1989 an Instruction was issued by the Vatican asserting that human life was to be treated as an inviolable right to its possessor from the “moment of conception,” that is from the moment that the human egg was fertilized, whether in utero or in vitro. This was also the view of the then Chief Rabbi. It was the line taken as well by a group called The Society for the Protection of the Unborn Child, many, but not all, of whom were religious, and who were equally vocal in their campaigns to criminalize abortion.

In the course of our deliberations in the Committee of Inquiry, we had naturally foreseen the ethical disagreements that would arise; indeed we had people of different moral views and different religions as members. We could not fairly have been accused of packing the committee with scientific or medical people, or those unduly sympathetic to the infertile, though we often had such allegations leveled against us, as the ethical debate spread with the approach of legislation. In fact the composition of the committee fairly well reflected the divisions of opinion in society at large, as we discovered from the evidence we took.

I devote some attention to the detailed workings of the committee, not because it got everything right, nor even because I am proud to have chaired it, but because it was the first of its kind in the world, and therefore it had considerable influence on subsequent thinking about the ethics of embryology, perhaps world-wide, but certainly in Europe. The non-medical members of the committee, and that was the majority including myself, were astonishingly ignorant of the natural development of the embryo; so before we could advise Ministers on the matter of possible legislation, we had to learn as much as we could about the subject-matter. We decided early on that we were minded not to prohibit

IVF absolutely, even though we knew that we should not get agreement throughout the membership on this point. But the great majority held that the balance of benefits over harm was too great. We did not think that to remedy infertility was a trivial matter; and in any case it was becoming clear by now that IVF might be used for fertile couples at risk of having children with genetically inherited diseases, where the mother's eggs could be fertilized in vitro, and the resulting embryos screened, only the healthy ones being selected for implantation (I return to the ethical objections raised against this practice below). But because we were about to make recommendations that were plainly moral rather than merely legal or political we had to learn the facts; moral judgments cannot be based on ignorance, though this is not always recognized. Luckily we had a brilliant physiologist, the late Dame Anne McLaren, among our number, who was not only a great scientist but a great teacher. She taught us that, on fertilization, the embryo consists of a loosely conjoined collection of cells (a zygote) which multiplies to four then sixteen undifferentiated cells. An undifferentiated cell may develop into any one of the 120 types of cell that make up the human body, such as skin, muscle, etc.; and some would not become part of the body at all, but of the placenta or the umbilical cord. From about the 14th day, however, there begins to appear, among this collection of cells, a sort of thickening in the centre, known as the Primitive Streak. After this the embryo develops fast, the primitive streak becoming the beginnings of the spinal cord, and the central nervous system starts to form. This is the last stage at which twins may split off, and develop as two embryos. We therefore decided that until 14 days from fertilization, the embryo could not be regarded in the same way as a later foetus (or two fetuses), but rather as a collection of human cells which could not yet have any experiences, having no vestige of a nervous system to organize them. Its use in research and subsequent destruction could therefore be morally justified, as long as the whole procedure had a beneficial purpose. However, to keep an embryo alive in the laboratory for longer than 14 days from fertilization was to be a serious criminal offence.

I have labored this decision because it has been of the greatest significance in the acceptability world-wide of IVF and other research using human embryos. The Fourteen-Day Rule has been incorporated into most if not all European legislation. The legal position is less clear-cut in the United States, largely because of the influence of fundamentalist religious views on federal legislation, as well as the freedom from regulation of much private medical practice.

The question of the moral status that should be accorded the live human embryo in vitro was and remains the single most fundamental source of ethical disagreement in general embryology since the 1970s. But, even within the narrower sphere of IVF, many other social issues have proved controversial. Because IVF, though now more or less routine, still requires complex surgical intervention, questions have arisen about whether doctors are entitled to refuse to treat some categories of people. Should those who are not married be treated? Should single women, or women who are part of a lesbian couple be treated, with donor sperm? Should women be treated if they are acting as surrogate mothers for single men or homosexual couples? On the whole, in my view rightly, the medical profession is unwilling to make moral judgments about those who present themselves for treatment, or long-term judgments about the effects on society of unusual families. So they are generally prepared to treat anyone who is clinically fit to be treated and who can pay for the treatment; the extent to which insurance companies or nationalized health services should cover costs is another moral or political issue, but hardly a matter of embryology. However, the concept of clinical fitness leads to a further ethical question. Is it morally acceptable to treat post-menopausal women? Will being the child of someone old enough to be his grandmother be physically or psychologically damaging to a child, or merely occasionally embarrassing? Answers to such questions must be hypothetical and, without supporting evidence, judgments cannot be reached with confidence. Perhaps, to form a judgment, a doctor would

need to enquire into the motives of the would-be mother (there was an elderly IVF mother in France whose motive turned out to be that of securing an inheritance, and depriving her sister of it).

More immediate than such ethical speculation is the anxiety now widely expressed about the risk of multiple pregnancies that IVF carries. In the 20th century, when IVF was new, it was generally accepted that to insert as many as four embryos in the uterus in any one cycle gave the greatest chance of successful implantation and resulting pregnancy. A multiple pregnancy was a risk, but one worth taking. Would not a hitherto infertile couple prefer to have two or three babies than none? Now, however, further studies have cast doubt on the effectiveness of inserting more than one embryo; also that the ill effects of multiple births, both on the mother (and probably the father) and the babies, is too serious to be lightly incurred. Perhaps legislation is needed in this area, or at least strongly worded guidelines.

The question of the moral status that should be accorded the live human embryo in vitro was and remains the single most fundamental source of ethical disagreement in general embryology since the 1970s

Finally, as I have already mentioned, moral doubts have been expressed about the ethics of pre-implantation screening of IVF embryos. Some disabled people hold that to attempt to eliminate the risk of a child being born with, say, cystic fibrosis is derogatory to the disabled. I regard this as such a bad argument that I shall not discuss it further. But some people also argue that such a process may be abused: parents, they argue, may want another baby with a particular blood-group, as a “savior sibling” to save the life, by organ transplant, of a fatally sick brother or sister. This

would entail, they think, that the second child was not loved for his own sake, but only as a means to an end. I regard this as a weak argument as well. Someone may be loved for himself and even more because he is a possible savior of his brother. Finally it is argued that pre-implantation selection may be used to select the preferred gender of a child (sex-selection); and that this would inevitably lead to a preponderance of boy babies over girls. However I do not think this is a genuine threat. Most people will not go through the painful and exhausting process of IVF just to have a baby of the chosen sex (though I can just about imagine doing so if this was likely to be your only child, or if you already had many daughters, and wanted a male heir). But to discuss such matters more thoroughly would be to encroach on the other ethical topic to be covered in this volume, that of so-called Designer Babies and other forms of enhancement.

There have been enormous advances in embryology since the 1970s. Probably the most notable has been the discovery that embryos might be formed by means other than the fertilization of eggs by sperm: a form of cloning. Cloning is a form of non-sexual reproduction in which all the offspring are genetically identical to the parent from which they are derived and to one another. All the identical organisms are collectively a clone; and each individual in the collection is a clone of all the others, parent and offspring alike. Many plants, such as strawberries, reproduce both sexually by spreading seeds and by putting out suckers which become plants that are really extensions of the parent plant. Human beings have long intervened in the reproduction of plants by taking cuttings, which are clones.

Research had been going on for many years to investigate the possibility of artificially cloning farm animals with a view to finding a quick way to reproduce a particularly successful strain of cattle or sheep. More than 50 years ago, a biologist called John Gurden had, after many failures,

transferred cells from tadpoles into frog's eggs from which the nucleus had been removed, and had produced new tadpoles which survived to maturity. But it was comparatively easy to work with frogs or salamanders which have large eggs, and where fertilization and development takes place outside the body. It was long believed that mammalian cloning was impossible. When in 1990 the United Kingdom, as part of the Human Fertilization and Embryology Act, made human cloning a criminal offence, they were thinking of the possibility of splitting a human embryo in the laboratory to produce artificially two embryos out of one zygote, that is, to produce identical twins.

But in 1997 scientists at the Roslin Institute in Scotland announced that they had successfully cloned a lamb, named Dolly, by a different method. They had taken a mammary cell from an adult ewe and cultured it in the laboratory so that it began to divide; meanwhile they harvested an egg from a second ewe and extracted its nucleus, using a pipette. They then insert the whole dividing cell of the first ewe into the enucleated 'shell' of the egg from the second ewe, and by means of briefly exposing it to an electric current, they got it to fuse into an embryo, which they then inserted into the uterus of a third ewe, a surrogate mother, where it implanted, and the pregnancy proceeded to term. However, the resulting lamb was not completely genetically identical to the first ewe, as naturally formed identical twins are to one another, because she inherited from the second ewe a small but significant amount of DNA contained in the mitochondrial cells that had continued to line the "shell" of her egg, and that are always passed in this way through the mother's line. The whole procedure was fraught with difficulty, the reconstructed embryos being exceedingly fragile. At Roslin, the scientists reconstructed 277 embryos. Only 29 of these were thought strong enough to be transferred to surrogate mothers, of whom 13 were used. Out of all these, only one was carried to term. Dolly grew into an adult ewe, somewhat overweight, and suffering from arthritis in her later years. She died at the age of six, which is late middle-age for a sheep.

As soon as the birth of Dolly was announced, speculation began about the possibility of cloning other mammals, including human beings (techniques have improved in the last 25 years, and many cloned cattle and sheep have been produced, some of them genetically modified at the embryonic stage, for particular medical or husbandry purposes). The idea of cloning human beings gives rise to widespread, though not universal, moral outrage. Immediately after the birth of Dolly, and before new prohibitive legislation had been passed, an Italian obstetrician, already notorious for bringing about an IVF pregnancy for a post-menopausal woman, announced that he was coming to England to make human clones, and that he already had 200 women lined up to act as surrogate mothers for the reconstructed embryos. The British government immediately rushed through legislation to prohibit human cloning, for although it had been prohibited under the 1990 Human Fertilization and Embryology Act, or so everyone assumed, an organization devoted to preventing the use of any human embryos in science or medicine took the issue to court. There a judge, rather surprisingly, ruled that a reconstructed human embryo would not be an embryo under the meaning of the 1990 Act, which covered only embryos created by the fertilization of eggs by sperm, that is, by normal means, though outside the body. So fresh legislation was deemed necessary (the judge later reversed his judgment).

If the procedure of producing cloned embryos by cell nuclear transfer became safe, I, for my part, can imagine cases where its use might be justified as a remedy for certain kinds of human infertility, so that a couple might have a child who was at least in part genetically theirs. I do not take very seriously the arguments of those who claim that a child born as a clone would be less than human, or would necessarily suffer from being genetically nearly identical to someone of a different generation. Such a child, after all, would be brought up and educated in quite different, and contemporary, circumstances. If someone wanted, as

some apparently do, to reproduce himself for the benefit of future generations, such arrogance alone would make such an outcome undesirable, even if it were both safe, and within the law. However, I suspect that the ethical revulsion that many people feel with regard to human reproductive cloning is largely explained by the sense that it is of all things the most contrary to Nature. Nature demands that, for a child to exist, it must have been conceived, and for it to be conceived, there must be a father and a mother. Nothing is more deeply ingrained in us than this belief. But Dolly had no father. A child with no father would be an unnatural monster, like Frankenstein's famous creation.

Arguments based on the supposition that what is natural is good, what is unnatural bad, have been common at least since the time of Jean-Jacques Rousseau. But they are flawed by the fact that "natural" and "unnatural" are capable of such widely differing interpretations. Especially in the field of medical interventions, hardly anyone believes that Nature should be allowed to take its course if someone is suffering from acute appendicitis, to be remedied by surgery, or from heart failure, where a pace-maker can be inserted. So it is irrational to object to asexual human reproduction solely on the grounds that it is not Nature's way.

And, as I shall explain, there are very good reasons to permit it, provided that it is not carried right through to the point of implantation in the human uterus. We must distinguish here between reproductive and therapeutic cloning. Reproductive cloning is the process already described, such as led to the birth of Dolly. Therapeutic cloning, as its name implies, is the creation of embryos solely with a view to developing therapies based on the use of cells before they have differentiated, following extraction from embryos a few days after being created. These are known as stem cells. Stem cells are characterized by two main properties: they have the capacity to renew themselves indefinitely; and they are not yet differentiated. However, they have the capacity to turn

into different specific types of cell. In nature, they do differentiate gradually this way, starting from four or five days after fertilization; but if they are taken from an embryo at this very early stage of development, they may be induced to develop into any one of the kinds of cell that might be needed to take over from and replace cells in a person's body that have been damaged by disease or injury. This would be known as cell transplant, to which concept I shall return in a moment.

Stem cells that are taken from early embryos are capable of being made to differentiate into any type of cell. They are also easy to obtain, whether from a "spare" embryo, which has been produced by fertilization in the laboratory in the course of an IVF treatment but not needed for implantation, or by cell nuclear transfer, the method that produced Dolly. But there are other sources of stem cells as all adults retain some stem cells in their bodies. However, adult stem cells have already partially differentiated and are capable of being made to develop into only a few of the types of cells of which the body is composed; and in any case they are difficult to obtain. There are stem cells to be found in the umbilical cord and the placenta and in aborted fetuses, but none of these is as versatile as those to be found in early embryos. Those people who are opposed in principle to the use of human embryos in research, and who hold that no embryo should be created in the laboratory which is not implanted in the uterus, so that it has at least a chance of being born, believe, understandably, that these drawbacks must be accepted as the price to be paid for the protection of embryonic life. They, reluctantly, prefer the use of "spare" embryos as the source of stem cells to the deliberate creation of embryos for the sole purpose of harvesting cells; but they do not approve of that either. And so they urge that, if cell transplant is to be pursued as a therapeutic goal, it should be confined to the use of adult stem cells (or cord and placental stem cells).

But cell transplant, like organ transplant, carries with it the risk of rejection by the recipient. Cells, like whole organs, carry a unique DNA makeup, and

must, like an organ for transplant, be as nearly as possible “matched” to the DNA of the recipient, who will probably have to take immune-suppressant drugs in order to avoid rejection by his or her immune system. Nevertheless, the possibility of the transplanted cells being turned into, say, bone-marrow cells that regenerate the bone-marrow cells of the recipient is an exciting medical development, and it is already being brought about in practice. And in the United Kingdom, at least, embryonic stem cell lines are being created and deposited in a stem cell bank, under the supervisory powers of the British Medical Council, for use in research or therapy.

The next step is to overcome the problem of rejection in a radical way. It is possible, at least in theory, to take a cell, any ordinary somatic cell, from a patient suffering, say, from spinal-cord injury or heart failure, culture this cell and treat it in such a way that “the clock is turned back” and the cell reverts to an earlier, undifferentiated, form of being. It can then be made to differentiate and become a cell of the required type; but it would be a cell from the body of the patient himself, so there would be no question of rejection. If this were to become a practical and usable therapy, there would be no need to extract stem cells from newly-created embryos. Stem cells could be, as it were, created artificially and individually, according to each patient’s needs. If this kind of procedure were to become widely available, it would be a huge step forward in medicine.

This is undoubtedly the way forward for stem-cell research and its applications. It is difficult to ascertain the progress that has been made globally. But one of the many merits of such amazing advances is that it no longer involves the creation by conception in vitro or by cell nuclear transfer of human embryos in the laboratory. But meanwhile, until such an advance can be hailed as routine, or be taken for granted, research using embryos continues to be a part of medical research, if only in order to enable us to better understand the details of cell differentiation (and

de-differentiation) within them. And obviously for the purposes of the remedying of infertility by IVF, embryos must be created by conception in vitro, and surplus embryos discarded. And so the ethical problems will in the end remain the same as they were in the beginning. What moral status ought we to accord to the human embryo at its very early stages? I think it would be true to say that in most developed countries, even some that are predominantly Roman Catholic, such as Ireland, in vitro fertilization has been accepted, and this means that the creation and destruction of early embryos is regarded as an acceptable, inevitable, routine procedure. This in turn means that the Instruction of the Vatican has, to all intents and purposes, been disregarded (though of course no one can be compelled either to undergo IVF treatment or to practice it, any more than they can be compelled to undergo an abortion, or use contraception). Such widespread disregard may be taken as a sign of the general secularization of society, which in turn means that people must increasingly find justifications other than religious dogma for their ethical judgments. That is, they need to find arguments that will convince the atheists.

The possibility of the transplanted cells being turned into cells that regenerate the cells of the recipient is an exciting medical development

There are many who welcome this. The ethical status of any measure, including any scientific research or medical procedure, must be judged according to the criterion of whether it does more good than harm to society at large, in other words according to the criterion of the Common Good. Legislators have always been obliged to use this criterion when deciding whether to prohibit some practice, regulate it, or allow it to be freely practiced. It is never easy to make such a judgment, and it may turn out to have been a bad decision, with consequences so obviously bad that

it has to be reversed. But those who broadly welcome the advance of scientific knowledge and the increase in medical and therapeutic technology, or who are interested in their own country's reputation in scientific research, recognize that risks must be taken if there are too many barriers to it. On the other hand there are some who fear that if society becomes accustomed to the use of human embryos in infertility treatment, it will seem no different from the use of other human tissue (such as, for example, the use of blood in blood transfusions); then something important will have been lost. This unease need have nothing to do with any religious belief. It may arise from the reflection that all civilized human societies must hold the protection of human life among their very highest values; and early embryos, however they are created, by conception or otherwise, are human and alive and have the potential, in the right environment, to develop into full human beings. If this respect for human life is allowed to be eroded, they fear, society will inevitably suffer, becoming less sensitive, more indifferent and ultimately barbarous. This anxiety is serious and must be taken seriously.

We thus come back to the beginning. There are, as I hope I have shown, a number of social problems which have to be solved by practitioners of, or beneficiaries from, advanced embryology; yet the fundamental ethical question remains that of the moral status a society should accord the very early human embryo. There are two considerations that might bring some comfort to those who are inclined to think we should turn our back on the whole thing, give up deploying IVF to remedy infertility, and go no further in the pursuit of therapy derived from embryonic stem cells. The first consideration is this: scientists who use and then destroy human embryos, thus wasting potential human life, are not alone. Nature itself is almost incredibly profligate in the creation and destruction not only of sperm and eggs but of actual embryos which come into being and are aborted so early that the woman herself who bears them does not know that they existed. The second consideration is more serious, perhaps. If

research is allowed to proceed towards its present goal, when cells from an adult may be taken, treated so as to turn them into totipotent cells and then used to repair damaged cells in that adult's own body, then the need for the use of embryos will come to an end. That, though far distant, is the ultimate aim of embryonic stem-cell research, and of course it can never be attained unless that research is allowed to continue. In my view, this is the justification for permitting such research, despite the ethical issues that at present it raises.

This study has necessarily been based on experience within the United Kingdom. It isn't difficult to discover how far stem-cell research has progressed in other parts of the world. (It is probably less advanced in other European countries, which have been more hesitant than the United Kingdom in bringing forward regulatory legislation). In the United States, there is no federal funding for new research that would stock cell banks with cell-lines other than those produced before 2002, many of which were not particularly useful. So, in effect, whatever stem-cell research is done must be privately funded, and about such research it is quite difficult to find reliable reports. There is little but rumour to tell us how advanced such research or indeed such therapy may be in South America, Singapore or China. But wherever embryos are used in research, and by whatever techniques the embryos are brought into being, the fundamental ethical question is the same: how are we to value these tiny entities, morally? Are they like babies who have been born or more like scraps of human tissue? My belief is that we should hold them to be more like human tissue, on the grounds that they can no more feel pain or pleasure than can a discarded piece of fingernail or a hair from a human head. And therefore we do not injure them by depriving them of life in the way that we would injure a baby who had been born, but whom we decided to destroy. The moral status that we accord them is based on developmental biology.

>> Almost 35 years after the birth of the first “test tube baby”, the controversy surrounding IVF treatment has greatly diminished, yet the ethics of embryology remain complex. What moral status should be accorded to the live human embryo in vitro? More recent discoveries involving cloning have provoked widespread, though not universal, moral outrage. But there are very good reasons for permitting the therapeutic cloning: the possibilities opening up through stem cell research could revolutionize medicine. The future may well bring cloning techniques that remove the need for embryos. Whatever may happen, the undifferentiated cells of the human embryo should be accorded a moral status based on developmental biology.

MARY WARNOCK

British Academy

ETHICS AND THE INTERNET

Robert A. Schultz

In this article I deal with *ethics* and the Internet rather than *morality* and the Internet.¹ I understand *ethics* to be principles regulating cooperative benefits and burdens. *Morality* includes principles justified by religious or cultural beliefs which are usually shared only by groups with restricted membership. I will first outline ethical principles applying to individuals, then societies, then global social and economic ethical principles. This ethical preliminary is necessary because I believe the principles necessary for dealing with the ethical problems of the Internet are largely based on individual and social principles, although they differ in some important respects.

ETHICAL PRINCIPLES

The basis of ethics as cooperative principles is the realization that rules limiting individual self-interest can often produce greater cooperative benefits.² Making and keeping agreements are a major part of ethics so

¹ This article belongs to *applied ethics* rather than philosophy.

² The payoff matrix called the *Prisoner's Dilemma* applies in most situations in which there is an ethical principle providing cooperative benefits, and the choice is to observe that principle or not to observe and act on self-interest instead. The payoffs reflect that one can

conceived. But ethical principles allowing us cooperative benefits involve more than keeping agreements. The principle of benevolence—to give aid to others in need—holds without any agreement. We simply assume that human beings recognize each other as fellow human beings and give aid because in so doing they expect that they will receive aid when they are in trouble.

By contrast, morality has a large arbitrary element because of its basis in beliefs that are explicitly not shared by all, such as religious beliefs. The principle that one ought to kill one's daughter if she marries an infidel can hardly be based on anticipated cooperative benefits. It is a membership rule for a religious sect. Failure to appreciate the distinction between ethical principles that insure cooperative benefits and moral principles that reflect mainly arbitrary religious or cultural beliefs may be responsible for the attractiveness of relativism, the belief that ethical beliefs are true only for specific groups.³

Three levels of ethical principles are: individual, social, and global. Social principles apply within a society, a group whose members share cooperative benefits and burdens with each other. Global or transnational principles apply to concerns which cannot be handled by dividing them up between societies. Internet ethical issues involve principles at all three

always do better from a selfish or self-interested point of view if everyone else obeys the (cooperative ethical) principle but you do not. If everyone acts selfishly (that is, disobeys), the cooperative principle with its cooperative benefits is no longer available, which means everyone is *collectively* worse off than if everyone obeyed. Therefore, the only way we can have ethical principles is if we treat principles which are cooperatively rational as of higher priority than considerations of self-interest (Schultz 2010, Chapter 4).

³ My distinction between ethics and morals is based on a distinction drawn by the philosopher John Rawls in developing his theory of justice. Rawls distinguishes principles of justice regulating cooperative behavior and comprehensive doctrines which are not allowed to affect the (cooperative) social contract (Rawls 1999). For further discussion, see Schultz (2010, Chapter 4).

levels. In my discussion of Internet ethical cases, I will be applying definite ethical standards at all three levels.

Some plausible candidates for standards for individual ethical behavior are these:

- *Intuitionism*: there are no overall standards, just a variety of principles we feel are correct by intuition.
- *Utilitarianism*: the right thing to do is what produces the greatest good for the greatest number.
- *Universal principle*: act on principles that could be willed to be universal law.

Intuitionism is actually not a standard. It says that there is no good explanation of right and wrong, but we nevertheless have strong intuitive feelings about what is right and wrong. For the intuitionist, these feelings need no justification. The Ten Commandments, taken by themselves, are an intuitionist theory. The major difficulty with intuitionism is that when different principles of right action conflict, we have no principled way of resolving the conflict.

Utilitarianism can be stated: act so as to produce the greatest amount of good for the greatest number. Utilitarianism has much plausibility. For how could it possibly be wrong to do the action that produces the greatest good? How could it possibly be right to do an action which produces less good when you could have done better? Although a plausible idea, utilitarianism suffers from two major difficulties. One is that if we consider actions in isolation from one another, it is easy for a utilitarian to break promises or fail to fulfill contracts when more good would be produced in that case. The trouble then is that institutions which allow cooperative benefits, to live and work together, would disintegrate. Important goods are not available unless we consider ourselves bound to follow certain non-utilitarian rules.

Utilitarianism can, however, achieve these goods if it is modified to apply to rules rather than individual acts. Then one is still bound by social rules governing the institutions of keeping agreements and fulfilling contracts even though more good might be done in the individual case by breaking the social rule. One takes actions not because the individual actions produce the greatest amount of good, but because the right action is to follow social rules which produce the greatest amount of good. This theory is called *rule utilitarianism*.

But how do we tell which rules these are? The second major difficulty is that summing goodness over individuals in any precise way has been proved to be impossible. So the notion of the greatest good for the greatest number can only serve as a metaphor. It simply can't be made precise (Arrow 1951).⁴

Universal principle ethics is one major alternative to utilitarianism. Universal principle ethics insists that rightness is not just some sum of goodness. The philosopher Immanuel Kant (1785) developed universal principle ethics, founded on his *Categorical Imperative*: act on principles that could be willed to be universal law. For example, making an agreement you have no intention of keeping could not be willed to be universal law because then no one would make or accept agreements. The biblical Golden Rule, "do unto others as you would have them do unto you," is a similar but less formal version of the Categorical Imperative.

As with intuitionism, universal principle ethics has little guidance for what to do when principles for right actions conflict. Some account is needed

⁴ Kenneth Arrow won the Nobel Prize in 1972 by proving in his "general possibility theorem" that a consistent and minimally just amalgamation of individual preferences is impossible. Such an amalgamation is called a "social choice." Utilitarianism as a usable theory would need to make such impossible social choices. Arrow's proof uses fairly abstract mathematics (theory of partial orderings) and is not accessible to non-mathematicians. For a brief (but still technical) account, see www.encyclopedia.thefreedictionary.com/Arrow's+theorem.

of ethical social rules, especially on how they fit together into a system without conflicts. The 20th century philosopher John Rawls expanded a suggestion by Kant on how to make this into a comprehensive theory of justice (Kant 1785, 74; Rawls 1999a). Rawls's theory has had wide influence and is used extensively by lawyers, jurists, and politicians.

At the individual level, utilitarianism and universal principle ethics often yield the same results. When they conflict, I shall favor universal principle ethics.

Internet ethical issues involve principles at all three levels: individual, social, and global

At the level of a society, rule utilitarianism is widely used as a theory of justice, especially by economists dealing with public policy. Rawls's alternative is a theory which bases principles of justice on a social contract (Rawls 1999a). Rule utilitarianism allows very uneven distributions of value, justifying the suffering of the less advantaged by greater overall advantage. By contrast, according to a social-contract view, the well-being of everyone, including the worst-off, is taken into account.

From the point of view of the social contract, another serious objection to utilitarianism is that it does not care directly about freedom. Parties to a social contract would instead insist that each individual has basic liberties which are not to be compromised or traded off for other benefits. This is Rawls's social contract's first principle of justice, *Greatest Equal Liberty*:

Society is to be arranged so that all members have the greatest equal liberty possible for all, including fair equality of opportunity.

Besides the basic freedoms such as freedom of speech, assembly, religion, and so on, it includes equality of opportunity. Thus society's rules are not biased against anyone and allow all to pursue their interests and realize their abilities.⁵ Freedom is to be limited only for the sake of another freedom (Rawls 1999a).

Rawls's second principle of justice is the *Difference Principle*:

Economic inequalities in society are justified insofar as they make members of the least-advantaged social class better off⁶ than if there were no inequality.

The social contract basis for the Difference Principle is straightforward: if you are entering a society with no knowledge of your specific place in that society, the Difference Principle guarantees that you will be no worse off than you need be.

At the level of society, Rawls's two principles of justice are a plausible alternative to utilitarianism. They are the ethical principles I will employ at this level.

At the global or transnational level, there are serious problems with simply extending ethical principles of justice obtaining in societies. Global concerns are those which clearly are not the responsibility of one society or another. They are of two types: Concerns about relations *between* societies, and globalized—mainly economic—concerns. For this reason, at

⁵ Rawls includes fair equality of opportunity under the second principle, although he himself includes it with the freedoms of the first principle when discussing how to apply the Difference Principle. See Rawls (1999a, 82).

⁶ "Better off" is to be measured against enabling values affected by the social structure reflecting an individual's life prospects. Rawls cites authority, income, and wealth as those enabling values (Rawls 1999a, 78).

this level, two social contracts are required: an International Social Contract, and a Global-Economy Social Contract. The International Social Contract is based on Rawls's *Law of Peoples* (1999) and requires minimalist democracies⁷ to refrain from intervening in each other's affairs and to assist each other when in need. The Global-Economy Social Contract has close analogues to Rawls's Principles of Justice, but there are important differences in their derivation and application. One important feature of the Global-Economy Social Contract is that it is agreed to by *individuals* sharing benefits and burdens in the global economy. Therefore the Global Greatest-Equal-Freedom Principle applies to individuals, not corporations, states, or any other global institution. Similarly, the Global Difference Principle applies only to participants in the global economy and its application must respect domestic justice (Schultz 2010).

Schultz's *Information Technology and the Ethics of Globalization* (2010) contains a very extensive discussion of these global principles, their justification, and their superiority to competing accounts (Schultz 2010: Sections II and III). One point from that discussion is important in considering Internet ethical problems. Most utilitarians and some social-contract theorists grant no ethical legitimacy to any group of people other than all of humanity. This sounds noble but I believe it leads to unacceptable ethical conclusions. The global-economy social contract I favor is between people sharing benefits and burdens in the global

⁷ The term "minimalist democracy" is borrowed from Singer (2004, 101). I follow Singer in regarding this as the appropriate standard for participation in an international society. A minimalist democracy is one that has been ruling for a long time with the apparent acquiescence of its people, without severe restrictions on civil liberties, and without using repression to maintain its power. Thus the Syrian government in 2011 would blatantly not qualify because it is killing its own civilian population to stay in power. Rawls requires the much stronger condition that for membership a society must be "nearly just." This stronger condition has the undesirable consequence that a very large number of nations are unnecessarily excluded from participation in an international social contract. See Schultz (2010, Chapter 7) for further discussion.

economy. The alternative cosmopolitan-utilitarian view *requires* redistribution to people with no connection to each other. Instead, I believe the correct ethical principle is an analogue of the individual principle of benevolence: To help other societies (or other economies) in need when the cost to one's own society would not be too great.⁸

The 20th century philosopher John Rawls expanded a suggestion by Kant on how to make this into a comprehensive theory of justice. Rawls's theory has had wide influence and is used extensively by lawyers, jurists, and politicians

INDIVIDUAL ETHICAL PROBLEMS OF THE INTERNET

I will consider two individual Internet ethical problems: the use of the Internet to meet sexual partners and the use of the Internet for what has been stigmatized as "piracy," that is, the individual copying of digital content for personal rather than commercial use. Both issues also have social dimensions. So I will discuss both individual and social aspects of these issues. Discussion of purely social issues will follow.

Meeting and communicating with people through the Internet, especially through such social media as Facebook and Twitter, has become common. It is not immediately clear that the Internet has introduced any new ethical issues in the areas of dating and sex. Finding sex partners through the Internet has also become relatively common, although this practice

⁸ This kind of consideration occurs frequently at the individual level in connection with what Kant called *wide duties* such as giving to others. We can't be required to give to *everyone* in need or to give *everything* we have because that would turn us into needy people ourselves. Similar considerations apply at the level of society.

has both benefits and drawbacks. One benefit is that people in small towns and rural locations suddenly have the same availability of sexual partners as those in densely populated big cities. One drawback is that the actual person may be different from what he or she presents himself or herself to be on the Internet. Sometimes the actual person may be thoroughly bad and may be using the Internet for exploitation or even to harm or kill. Sometimes the actual person may be a total fiction set up to entrap an unsuspecting pedophile.⁹ But all of these effects could be consequences of phone conversations or (to some extent) meetings in bars or restaurants. However, unlike phones, bars, or restaurants, Internet media are able to access databases of sexual predators and filter them out. Recently Match.com settled a lawsuit by agreeing to screen all members. Clearly it is ethical for Internet media to screen their members when possible to eliminate possible harm to other members. Other Internet media companies apparently agree, for Match.com's screening is expected to become an industry standard (Williams 2011).

The psychological effects of Internet-mediated relationships may take some time to be assessed accurately. When Internet-mediated relationships actually *replace* face-to-face relationships, there could be a problem. People do become addicted to sexually charged websites and Internet pornography. But if the description of "addicted" is correct, then this is not an ethical problem but rather a personal problem, a psychological illness, for which some form of treatment is necessary.

One enabling feature of the Internet for finding partners which does make a difference for ethics at the social level is lack of censorship on the Internet. In part this is because of inherent Internet design features—no

⁹ An MSNBC show does this extensively. Although I believe sexually exploiting children is very wrong, I also believe entrapment is also very wrong. The show has produced a number of broken lives and at least one suicide. Who knows whether the people they catch would have gone after kids without the Internet posting?

one has to go through a central computer to get onto the Internet, and thus effective monitoring is difficult. Most recently in the area of political freedom in the Arab Spring of 2011, the Internet has been a powerful force in resuscitating the freedoms of the First Principle of Justice. These freedoms are important constituents of what are called human rights: privacy, freedom of speech, and freedom of association are enhanced by the ability to communicate freely with others at any location with a computer or such devices as smartphones having similar functionality. It is also important to keep these freedoms in mind when restrictions on the Internet freedom are proposed or implemented. In this connection, the important case of Wikileaks will be discussed later.

Clearly it is ethical for Internet media to screen their members when possible to eliminate possible harm to other members

COPYRIGHT AND PIRACY

Issues of copyright and piracy are also individual ethical issues with significant social-ethical dimensions. People can make digital copies at will, and these copies can be available to anyone on the Internet. The ethical question is whether this is merely an extension of friends swapping copies (perfectly ethical) or whether it is an illegal (and unethical) violation of copyright. An entirely new method of sharing copies requires a rethinking of ethical principles. I will begin by considering the ethical basis for copyright in property rights and ownership from the point of view of Rawls's principles of justice. Then I will apply these results to issues involving digital copying.

The original stated purpose of copyright is to give the artist or creator of intellectual property the exclusive right to reproduce it, but not just for the

artist or creator to be able to reap suitable rewards for his creation. Ultimately the existence of this right is to stimulate creativity. United States Supreme Court Justice Sandra Day O'Connor writes (Lewis 2001: 1):

The primary objective of copyright is not to reward the labor of authors, but "to promote the Progress of Science and useful Arts." To this end, copyright assures authors the right to their original expression, but encourages others to build freely upon the ideas and information conveyed by a work.

The original intent of copyright has clearly been distorted in recent years as corporations holding copyrights use their influence in Congress to extend the copyright period almost indefinitely. The Digital Millennium Copyright Act of 1998 criminalizes for the first time "unauthorized access" to works that are published and sold. The original copyright period of 14 years is now 70 years for individuals and 95 years from publication and 120 years from creation for corporations! (Lewis 2001). The benefit from the extended copyright is enhanced corporate profits, and the extended time frame assures that any connection to stimulating creativity is very limited. Indeed the 120-year extension can only benefit immortal corporations rather than mortal individuals. Nonetheless, the ethical question is about the justice of this situation. If contribution to corporate profits is a sufficient justification for having and enforcing a copyright, then recent prosecution of consumers for making digital copies is ethically in order. If, however, there is not a basis in the principles of justice for these restrictions on individuals, then there is an ethical basis for changing the legal environment, either through the courts or legislatures. However, the fact that a law is unjust does not give an individual the right to break or ignore it. Rather, attempts should be made to change the law.

I follow Rawls in his account of property rights. According to Rawls, property rights have their place in a just society for two reasons: first,

because social assets tend to deteriorate unless an agent is named to take responsibility for maintaining them; second, because the right to personal property is a basic human right (Rawls 1999b: 8, 65). Personal property is a necessary material basis for full development as an individual in a just society and for self-respect (Rawls 2001: 114, 58–59). But Rawls explicitly notes that two wider conceptions of property rights are not fundamental: first, the right to private property in natural resources and means of production; second, the equal right to participate in control of socially-owned means of production and natural resources (Rawls 2001: 114).

The final element needed for this topic is the ethical role of corporations. A corporation is a legal entity capable of acting in some respects as an individual, mainly in terms of property rights, legal liability, and political rights. Theoretically corporations are created to serve the public benefit, and their trans-individual status allows them to function more efficiently, without constant shifting of property rights and responsibilities. ([http://legal-dictionary.thefreedictionary.com/ Corporation](http://legal-dictionary.thefreedictionary.com/Corporation)). A corporation, as a legal construct created for reasons of efficiency, clearly should not inherit all the rights of the individuals making it up.¹⁰ But it should inherit rights when denying them would deny the rights of the individuals making up the corporation. And in cases where the only justification for corporate rights is the efficient operation of the corporation itself, the principles of justice require us to consider the impact of the corporation on the rights of individuals outside the corporation.

¹⁰ The 2010 Supreme Court decision *Citizens United v. Federal Elections Commission* decided that corporations deserved the individual right of free speech, continuing a string of thoughtless Supreme Court decisions (Wikipedia 2010). As my student Rich Habgood observed, although corporations can buy and sell each other, and people can buy and sell corporations, corporations cannot buy and sell people, nor can people buy and sell each other. Therefore, corporations are not people and there is no reason to treat them as such.

Thus the claim that corporate holders of copyrights have the right to dispose of their intellectual property in any manner that they want—an “absolute” ownership right—is simply not supported by the principles of justice.¹¹ It would have to be shown that the individual’s right to free expression is enhanced by absolute ownership rights of intellectual property in general, or copyright extension in particular. Since the opposite of enhancing free expression actually seems to be the result, there is no such absolute ownership right.

I believe the Supreme Court Betamax decision of 1984 is the correct legal and ethical basis for this issue (FindLaw Legal News 1984). The court held that non-commercial home-use recording of material broadcast over the public airwaves was a fair use of copyrighted works and did not constitute copyright infringement. Further, makers of VCRs could not be held liable as contributory infringers even if the home use of a VCR was considered an infringing use.

Fast forward 20 years and we find music and movie companies hard at work demonizing, prosecuting, and persecuting individuals for making copies for their own use. In the year before August 2004, the recording industry sued just under 4,000 individuals for downloading copyrighted music. People sued are forced to settle for amounts in the thousands because legal expenses for specialized entertainment or copyright lawyers would cost even more. (Bridis 2004). The Motion Picture Association of America announced in November 2004 that it would begin employing the same tactics, suing downloaders for amounts of US\$30,000 to US\$150,000. The MPAA draws no distinction between downloading for personal use and downloading for resale (Hernandez 2004).

¹¹ Thus neither the Berne Convention nor many aspects of the Digital Millennium Copyright Act would be supported by the principles of justice.

The behavior of record and movie companies seems clearly legal but unethical. Those making and reselling copies of music and movies are correctly called pirates, and it is both legal and ethical for record and movie companies to pursue these people. But the spectacle of huge companies harassing their own customers in an apparently mistaken drive to increase profits is not heartening.¹² Even worse, these companies are clearly set on stamping out digital copying wherever it may arise. Movie studios have expressed concerns about TiVo to go, which allows users to transfer movies recorded on TiVo to other devices (Wong 2004). On the other hand, a California district court held in 2003 that the file-swapping service Grokster is not liable if its software is used to make illegal copies. Although this court decision parallels the 1984 Supreme Court Betamax decision, the United States Supreme Court reversed it and held in 2004 that Grokster was indeed liable for any copyright infringement. As a result, Grokster went out of business in 2005. Digital copying helps greatly in disseminating intellectual property and in this respect furthers intellectual progress. Further, non-commercial possession of digital copies by individuals seems to be an important part of their right to personal property.¹³ Of course it has to be acknowledged that digital copying makes it more difficult for record and movie companies to collect revenues in the same ways they have been doing. But perhaps it would be better for them to expend their resources on researching ways to profitability in a world including relatively free digital copying, than on trying to stamp it out. It is likely that any measures which are effective in making the world safe for a traditional revenue model for movies and music will also include measures which clearly violate the Greatest Equal Liberty principle of justice.

¹² Goodman (2008) reports that the music industry's decision to go after non-commercial copiers is considered its worst mistake, and probably responsible for its tailspin in profits since closing down Napster. Blender magazine suggests that the industry should have instead figured out how to make money from downloading.

¹³ Commercial software is licensed rather than sold to prevent software users from having the rights of ownership—in particular, the right to resell the software.

So what should the individual ethical response be? The laws and policies which allow record and movie companies to prosecute, harass, and stigmatize private individuals for making copies for their own personal use are unjust. That does not mean that it is OK to make digital copies at will. Rather, attempts should be made to change the laws and policies. If these attempts are unsuccessful, then some form of civil disobedience may be justified. But for civil disobedience to be justified, one's actions have to be very clearly set up to demonstrate a point about justice.¹⁴ For example, in the present case, if someone decided to download music as an act of civil disobedience, he or she would first have to notify the record companies that he or she was going to do so. Then, when sued, he or she would have to willingly pay the penalty. Somehow I don't think many people would want to do this. Of course, downloading music or movies and trying not to get caught has nothing to do with civil disobedience.

INTERNET SOCIAL-ETHICAL ISSUES

I have already discussed the role of the Internet in helping to fulfill Rawls's Greatest Equal Liberty Principle, his first principle of justice. The second principle of justice, the Difference Principle, is important for discussions of what is called the Digital Divide: the use (or lack of use) of the Internet by the least-advantaged. There are two questions to consider: first, how does the use of the Internet by the least-advantaged affect their life prospects? Second, how does the use of the Internet by other sectors of the economy contribute to the life prospects of the least-advantaged?

There has always been a gap between those people and communities who can make effective use of information technology and the Internet and those who cannot. One concern is that the more-advantaged are getting

¹⁴ See Rawls (1999a, section 55 "Civil Disobedience").

the benefits of their own use of the Internet added to their previous advantages, whereas the least-advantaged are not using the Internet and are therefore falling farther behind the more-advantaged. One of the premises in this argument is that the use of the Internet leads to increases in personal productivity.

Attempts to mitigate this problem are framed in terms of increasing the skills to use the technology rather than directly in terms of improvement of life prospects. From the point of view of justice, the assumption that increased Internet skills will improve a person's ability to reap the fruits of the economy, while reasonable, needs to be confirmed by more research. It could very well be that some improvements in Internet-related skills are much more effective in improving the prospects of the less well-off than other possible improvements. In any case, justice requires us to try to find out.

As of 2000, the United States Department of Commerce found that White (46.1%) and Asian American & Pacific Islander (56.8%) households continued to have Internet access at levels more than double those of Black (23.5%) and Hispanic (23.6%) households. They also found that 86.3% of households earning US\$75,000 and over per year had Internet access compared to 12.7% of households earning less than US\$15,000 per year (Dept. of Commerce 2000). A 2004 update by the Kaiser Family Foundation found that lower-income and minority youth were still much less likely to use computers or the Internet. In 2004, 92% of households earning US\$75,000 and over had computers at home compared to 45% of households earning less than US\$20,000. Internet access was available at home to 80% of whites compared to 67% of Hispanics and 61% of African-Americans (Kaiser Family Foundation 2004).

So, while there has been an improvement, there is still no question that attempting to improve the Internet skills of those who lack them will also

end up targeting the less well-off. The question remains, though, about how improvement in Internet skills improves the prospects of the less-advantaged. Fair equality of opportunity by itself may justify efforts to lessen the Digital Divide. Insofar as it is difficult or impossible even to apply for higher-status jobs without email capability, justice would require making this capability available even to the least-advantaged.¹⁵

How does the use of the Internet by the least-advantaged affect their life prospects? How does the use of the Internet by other sectors of the economy contribute to the life prospects of the least-advantaged?

When we apply the Difference Principle and consider the Internet usage of the least-advantaged, we need to consider both the impact of their own usage as well as the indirect effects of increased productivity on their prospects. Even the less well-off benefit from efficiency brought about by the Internet even if they themselves do not use it. But from the point of view of the principles of justice, increased Internet skills for the less-advantaged are not valuable just for their own sake. Increased skills must contribute either to the first principle of justice by implementing fair equality of opportunity, or to the second principle of justice by improving the prospects of the least-advantaged. Although it is very likely that increased Internet skills for the less-advantaged work to fulfill both principles, ethics and justice require us to maintain the proper focus in this area.

¹⁵ The Community Voice Mail project discussed by Taglang 2001 would be a step in this direction. In Community Voice Mail (CVM), a CVM Director distributes the voicemail boxes to hundreds of agencies across a community; the agencies in turn provide [homeless] clients with personalized, 7-digit phone numbers that can be accessed from any touch-tone phone, 24 hours a day.

SALES TAX ON WEB-BASED TRANSACTIONS

A current issue of Internet ethical policy is this: should sales tax (in the United States) be collected on web-based transactions? If so, where and by whose rules? If not, isn't this an unfair advantage for e-businesses? This problem involves the ability of Internet-based companies to transcend traditional jurisdictions and is thus a smaller-scale precursor of the global ethical problems discussed in the following sections.

Sales tax in the United States is collected by states, and each state sets its own percentage and its own list of what is taxable and what is not. The tax is collected on transactions done by businesses with a physical presence in that state. Two United States Supreme Court rulings (*National Bella Hess, Inc. v. Dept of Revenue of Illinois* in 1967 and *Quill Corp. v. North Dakota* in 1992) found that it would be an excessive burden for mail-order (and now, Internet-based) companies to comply with 7,600 state and local tax codes and thus an unconstitutional restriction on interstate commerce. Thus the Supreme Court's Sales Tax Locality Principle (Institute for Local Self-Reliance 2007):

Only firms with a physical presence in the jurisdiction are required to collect that jurisdiction's sales taxes.

Also, some "clicks-and-mortar" retailers contend that their e-commerce operations are distinct legal entities unrelated to their stores. Their Internet outlets therefore lack a physical presence and are not required to collect sales taxes. (Institute for Local Self-Reliance 2007) But many, including for example Nordstrom's, follow the Sales Tax Locality Principle (Nordstrom.com):

Orders shipped to AZ, CA, CO, CT, FL, GA, HI, IA, ID, IL, IN, KS, MD, MI, MN, MO, NC, NJ, NV, NY, OH, PA, RI, TX, UT, VA or WA

[states where Nordstrom's has physical facilities] will have all applicable local and state sales taxes added to your total order, and to your shipping charges where appropriate.

There is an attempt in Congress to change the situation. The proposed Federal Sales Tax Fairness and Simplification Bill would require all retailers to collect and remit sales taxes. Such a change would incur the previous Supreme Court objection unless sales tax codes were drastically streamlined, and this bill includes language to that effect (Institute for Local Self-Reliance 2007). Unfortunately, different state and local governments may still be able to tax different items and at different rates. The only change will be a uniform list of types of taxable items and procedures for publicizing change. It is hard to see how this would meet the Supreme Court's previous requirement of no excessive burden.

But the ethical question is one of justice. We have seen before that the Supreme Court does not always make just decisions. And so we can ask, is the practice of exempting businesses without a physical presence in the taxing jurisdiction, a just practice? And are the Supreme Court's grounds for exempting businesses correct from the point of view of justice, namely the burden caused by having to comply with a huge number of changing rules promulgated by a huge number of jurisdictions?

Let us assume that the sales tax itself is a reasonably just institution. For various reasons, it may be the only way certain jurisdictions can obtain funds for activities belonging to a just society (police protection, health care), even though the tax is correctly described as "regressive" in taking a significantly greater share from lower-income individuals. The more important consideration is that Internet business transactions simply do not take place at a few specific physical locations.

Mail-order (and phone-order) sales transactions still take place at particular physical locations. The selling organization has its operations at one place, and the customer is at another. But with the Internet, the various parts of a sales transaction can easily be scattered across not only many states but many countries. From the point of view of justice, the tax should be collected at the point where it supports the infrastructure needed for commercial transactions between seller and customer. And the seller should be responsible for knowing only the tax rules for the areas in which it does business (and therefore has some responsibility for contributing to the infrastructure needed for commerce). But it is different when the marketing is planned in San Francisco and executed on a server in New Jersey and the order information is taken from a customer in Iowa and processed by someone in Ireland and shipping is coordinated in Seattle for shipment from a warehouse in Colorado and payments are processed in the Bahamas and questions about the transaction handled in Bangalore. Where is the physical presence of such a company? The Supreme Court's Sales Tax Location Principle no longer seems to apply.

The consideration of justice underlying the location of the collection of sales tax is helping to support the infrastructure of the location where you do business. So it seems very wrongheaded to extend traditional sales tax collection to e-businesses. There would be some justice in having a separate national (or even international) tax to help support Internet infrastructure. But there is no requirement in a market economy to make life safe for bricks-and-mortar companies. Within a market economy, competition should decide. There is no requirement of justice, and indeed it would be a misuse of government power to use government redistributive power to make traditional businesses competitive. It would be just as inappropriate for the government to prevent airlines from charging less for e-tickets even though travel agents are put out of work. A certain amount of economic dislocation is part of the workings of a free

market, and a market economy is an important institution helping our society satisfy the principles of justice.¹⁶

Thus fair taxation is based on the location of the infrastructure supporting the operations of the taxed entity. The state of California currently has what they call a “use tax” on Internet transactions. This tax, the same amount as sales tax, is collected along with the state income tax. But how can this be a fair tax for a typical Dell Inspiron notebook ... codesigned in Austin, TX, and Taiwan, assembled in Malaysia with parts from the Philippines, Japan, Korea, Costa Rica, Mexico, Taiwan, Israel, or China? (Friedman 2005: 415–417) Calling this a “use tax” is California’s unjust attempt to get around the Supreme Court’s Sales Tax Locality Principle. California has no ethical basis for its use tax. At the very most, only that portion of the transaction requiring California infrastructure should be taxed.

Applying this line of reasoning in a global context, any institutions supplying the infrastructure for global commerce are entitled to payment by those using the infrastructure. However, the Internet is supported in a distributed manner. Not only is there no central computer, there is nothing that is not maintained either by commercial ISPs charging for services, or companies whose contribution to the Internet is a business expense, or nonprofits like universities which are funded in other ways. So with the present Internet architecture, there is no need for any additional support and hence no need for a transnational Internet sales tax.

¹⁶ See Schultz (2006, Chapter 5) for a discussion of the importance of a market economy in satisfying Rawls’ principles of justice.

The global ethical Internet issues that I will consider are Internet free speech, the regulation of websites with global presence, and the role of the Internet in facilitating globalization.

Because of the nature of the Internet, all websites have international presence, in the sense that they are visible in all areas where they are not blocked. But many websites have only local relevance. A list of restaurants in Beverly Hills, CA, United States is almost entirely of interest only to those who are located in that area. They may be trying to find a restaurant, or just in seeing what's around on Rodeo Drive. We can contrast these local websites with websites intended, not only to have an international audience, but to function transnationally.

To what extent do the laws and customs of a particular company apply to websites which are operating transnationally?

Ethical issues are raised in two types of cases: first, some websites are located in other countries in order to circumvent the laws of countries where the website will be viewed. For a period of time, music websites offering free downloads functioned in countries where their activity was not forbidden. The Napster and Grokster free services were effectively terminated by court decisions in the United States. Grokster's server was located outside the United States in the West Indies. Second, other websites are banned for political or ideological reasons from their country of origin and must relocate to continue to be available. The Great Firewall of China (the colloquial name of the project officially known as the Golden Shield) blocks content which might be threatening to the Chinese government, including sites such as Wikipedia and BBC News, and topics

such as freedom of speech, democracy, Tiananmen Square, and the Dalai Lama (Elgin 2006). In countries which have more respect for human rights such as most developed countries, requests to shut down sites are rarely honored, except for obscenity and commercial reasons.¹⁷ The case of Wikileaks, discussed below, is an important exception.

The globalized ethical issue raised by these two kinds of cases is clear: to what extent do the laws and customs of a particular country apply to websites which are operating transnationally? The fact that the music-downloading website Grokster was operating from a server in the Caribbean did not shield it from the United States court decision that shut it down. There is no global institution or policy to handle these issues. The International Court of Justice (ICJ) adjudicates disputes between states; and the separate International Criminal Court (ICC) tries individuals for crimes against humanity. But neither court is designed to handle essentially routine legal disputes which are difficult or impossible to locate in any national jurisdiction.

Around 2002, Yahoo provided the Chinese government with information about two pro-democracy journalists who were subsequently jailed and apparently tortured. The journalists later successfully sued Yahoo in the United States. Yahoo initially claimed that it was merely complying with Chinese law (Elias 2007). The obvious ethical issue is whether Yahoo should do this, whether the law of a country not recognizing basic human rights should be followed. The background question is whose law, if any, should be followed by a transnational company? Again, the fact that this is an Internet company makes the question a lot harder to answer. With outsourced manufacturing, the choice would be the country where operations take place. With Yahoo, it is not so clear, although Yahoo itself

¹⁷ Actually, the right of freedom of speech does not extend to the Internet in the United States. See Jesdanun (2008).

seemingly followed some such principle by selling its Chinese e-mail operation to a Chinese company.

At Yahoo's 2007 annual meetings, Yahoo shareholders voted overwhelmingly against a proposal for Yahoo to reject censorship (BBC News 2007). Obviously Yahoo, as a corporation, is bound by the vote of its shareholders. But ethically do the shareholders of transnational corporations have the last word?

One solution to global ethical problems is simply to extend the principles of justice for particular societies. The political theorist Charles Beitz thinks that "enough" background global social and political institutions exist to validate the application of domestic principles of justice within a global context (1979: 148–149). But how do these global institutions become vehicles for a Global Greatest-Equal-Freedom Principle or a Global Difference Principle?

Consider, for example, Yahoo's problem with Chinese law. If we just "go global" with the principles of justice, we would have to say that Chinese law is irrelevant; it conflicts with the principle of Greatest-Equal-Freedom, which is for Beitz a priority principle of global justice. Of course we know that it is a correct principle of justice, and if the Chinese don't accept it, that is their problem. "We" can require China not to censor the Internet or impose sanctions as executors of global justice. All social-contract theory is based on consent of those subject to the agreement. But instead, Beitz's global-social contract requires us to impose our own beliefs on others. And it is far from clear who is ethically justified in doing the imposition.

Cosmopolitan utilitarianism is utilitarianism extended to global scope. In cases like Yahoo in China, cosmopolitan utilitarianism would consider what policies would produce the greatest (average) value across the

globe. Obviously, we should consider average value rather than total overall value. Otherwise, the Chinese would always win because of their much greater numbers. Even with this clarification, it is open to question whether freedom of speech is more valuable than economic gain. Could China have achieved its breathtaking economic growth without restrictions of personal liberty? If China's restriction of personal liberty is justified on utilitarian grounds, then Yahoo was justified in turning over dissidents to the Chinese government to be tortured. Questions of transnational justice don't even arise for cosmopolitan utilitarianism. Additionally, Yahoo's stockholders may have had good utilitarian justification for voting against any prohibition of censorship. Letting each country enforce its own censorship laws on the Internet would likely produce more profits for Yahoo. And a utilitarian could argue that having corporations stick to their purpose of maximizing profits is the policy that will produce the best results for everyone, although this claim is almost certainly incorrect.

Looking at the case of Yahoo from the point of view of the two global social contracts, the ethical conclusion is that, without some transnational legal rules or policies in force, Yahoo has no good ethical alternative. Yahoo is stuck with obeying the law of one state (China) and getting punished (successfully sued) in another (the United States). The Global Network Initiative of October 2008, discussed below, may be an ethical solution.

The shareholder's vote against a ban on censorship is another ethical matter. Yahoo's shareholders have equal rights, but not the right to deny equal rights to participants in the global economy, including Internet users. Thus they do not have the right to prevent Yahoo from enforcing equal rights (that is, banning censorship). This follows from the global social contract principle of Greatest Equal Liberty. Yahoo therefore has the right to ignore the shareholder vote.

In early 2008, the whistle-blowing website Wikileaks, with its server in San Mateo, CA, was ordered to shut down because the Zurich bank Julius Baer Bank and Trust claimed that the site had posted stolen and confidential material. Interestingly enough, the exact location of the organization is unclear. It has spokespersons in Paris and posts material from Chinese dissidents. Wikileaks argued unsuccessfully initially in a United States court that United States courts did not have jurisdiction (Elias 2008). The argument later prevailed that shutting down an entire website constituted illegal “prior restraint” in United States Law, and that even removing the documents was unconstitutional (Kravets, 2008).

In 2009, in a highly publicized action, Wikileaks released a large number of classified documents of the United States government, many dealing with the wars in Iraq and Afghanistan. The result was an attempt by Sweden to arrest the founder of Wikileaks, Julian Assange, on apparently trumped-up sex charges. In the United States, the major credit card companies Visa and Mastercard refused to honor contributions to the defense of Wikileaks and its founder (Hosenball 2011). And Bradley Manning, Wikileaks’s US informer, is still imprisoned in very inhumane conditions with no hope of a hearing—a completely unconstitutional action. Manning is effectively a political prisoner. His political-prisoner status was approved by United States President, Barack Obama.¹⁸ There are two issues here: the United States’ failure to honor its own human rights safeguards on the treatment of prisoners, and the basis for Wikileaks’s claim for free-speech rights.

The two issues are connected, because the United States government, at least since 9/11, has decided that considerations of “national security”

¹⁸ Obama has continued the policies of his predecessor, G. W. Bush, in abrogating human rights provisions of the United States Constitution and persisting in wars with dubious ethical justification.

trump human rights concerns such as rights of prisoners and free speech. Two points here: first, if human rights aren't part of what is being defended in the name of national security, what is being defended? Claims that "freedom" is being defended become completely empty. Second, "national security" is historically a very tarnished justification for state action. National security was invariably the Nazis' justification for rounding up and executing Jews, Gypsies, homosexuals, etc. (Todorov 2001). It is not acknowledged in the United States that national security protects the holdings of the wealthy more than the freedom of the average citizen. Because of the widespread abuse of the term "national security" to justify ethically abhorrent actions, I believe it has no weight whatever in ethical justification. The Wikileaks documents concerned wars that are by any standards unethical and violations of international law. Hence Wikileaks was guilty of no more than embarrassing and exposing government officials who are in fact war criminals.

GLOBAL-ETHICAL INTERNET POLICIES

The Yahoo case raises the issue that different jurisdictions have very different laws concerning such human rights as freedom of speech. Indeed, it came as a shock to me to discover that in the United States, the right of freedom of speech does not apply on the Internet (Jesdanun 2008). Parties to the Global-Economy Social Contract would agree to a Global Principle of Greatest Equal Liberty. So how can this principle be enforced over the various national jurisdictions? Any jurisdiction (like China or the United States) that found it important to restrict human rights such as freedom of speech would probably not be willing to enter into an international treaty not to restrict speech or other rights. An international agreement to end tax shifting would be more-or-less in the cooperative self-interest of all nations. But an agreement on human rights impacts only individuals. It is actually not clear that a transnational

human rights authority would make things better, because an authority with enough power to override laws concerning rights within a country could easily become a global despot. The appropriate institution to improve the status of human rights under the Global-Economy Greatest-Equal-Freedom-Principle may be an institution like the civil society of NGOs, the Global Internet Freedom Consortium, or the Global Network Initiative.

The Global Internet Freedom Consortium is a group of nonprofit and for-profit companies dedicated to developing, implementing, and disseminating technology to allow free access to the Internet in spite of government restrictions. Google, Yahoo, and the other major transnational Internet and communications companies indicated their seriousness about Internet freedom by creating the Global Network Initiative in 2008. This initiative acknowledges that global Internet and communications companies are committed to respecting freedom of expression and privacy. These companies now agree to respect these rights even when confronted with countries which do not obey international standards. The initiative includes independent review of how well companies are implementing the principles of the initiative (Global Network Initiative 2008). Some NGOs are concerned that mandatory penalties are not included (Sarkar 2008). But independent compliance review is included and the importance of these companies acknowledging that principles of global justice take precedence over repressive national laws cannot be overstated (Global Network Initiative 2008).

The more general question is to what extent human rights (in the Greatest Equal-Liberty-Principle) should be enforced globally and through what institutions? Rep. Chris Smith, R-N. J., introduced a House bill in 2007 that would bar United States Internet companies from turning over personally identifiable information to governments that use it to suppress dissent. If the tech companies released information, they could face

criminal penalties. Both Google and Yahoo want the United States government and other countries to make Internet freedom a top priority. “We have asked the United States government to use its leverage—through trade relationships, bilateral and multilateral forums, and other diplomatic means—to create a global environment where Internet freedom is a priority and where people are no longer imprisoned for expressing their views online,” said Michael Samway, Yahoo’s vice president and general counsel (Sarkar 2008).

A related ethical question is whether companies should supply equipment enabling Internet censorship. Cisco Systems is accused of having modified equipment at China’s request, an allegation Cisco denied (Earnhardt 2006). Nokia Siemens has also been accused of supplying equipment to Iran to be used for censorship (Risen 2010). Microsoft came out firmly against these practices. In a proxy statement to the Securities and Exchange Commission, Microsoft stated “[Microsoft] will refrain from supplying government agencies in Internet-restricting countries with equipment or training designed to facilitate the censorship of Internet communications (MSFT Def 14A 2007).

The equipment issue and more cases of Internet censorship have increased interest in whether the Global Network Initiative should be supplemented by Rep. Chris Smith’s Global Online-Freedom Act, reintroduced in 2010. However, Rep. Smith’s supposedly global law is actually United States law. While it will undoubtedly help United States companies and companies with substantial United States presence and markets, as noted before, it will have little impact on repressive regimes (Risen 2010).

These developments will somewhat improve the situation for transnational actors. But in some countries, there are still internal problems of justice. Problems with China are well-documented, but other

countries are still far from Greatest Equal Liberty.¹⁹ Before the implementation of the Global Network Initiative, large companies such as Google took the position that local laws restrictive of freedom must be obeyed. In May 2008, Google announced that it gave police information about a user of its Orkut social-networking site in order to comply with Indian law. The police used the information (an IP address) to arrest a suspect for posting vulgar content about a top Indian political leader. Google's action clearly violated the Global Economy Greatest-Equal-Freedom Principle. In India apparently damaging the "modesty and reputation" of a person, especially a top political leader, is a criminal offense.²⁰ There could be good reasons for complying with local law which conflicts with the Greatest-Equal-Freedom Principle. It may be that failing to comply with local law would produce a greater restriction of freedom. For example, if failing to comply with local law resulted in the shutdown of a valuable social-networking site. But the principle that all local law goes, no matter how restrictive of freedom, is clearly wrong. At the very least, Google should have supplied the information under protest. Presumably they would have acted differently after subscribing to the principles of the Global Network Initiative.

Google's actions in Brazil were quite different. Google took action in Brazil to stop child pornography and hate crimes on a social-networking Website used there—but Google did not offer to provide user information to officials. In August 2007, Brazilian federal prosecutors said Google failed to comply with requests to provide information about users who allegedly spread child pornography and hate speech. Google eliminated these users from its groups but refused to release information about them to

¹⁹ Malaysia and South Korea are two recent examples.

²⁰ John Ribeiro, the United States author of a piece approving of Google's action, made the incredible claim that damaging the "modesty and reputation" of a person is as bad as planning a terrorist attack! (Ribeiro 2008).

authorities, arguing it is bound by United States laws guaranteeing freedom of speech. The company also took other action against the offending content, and these actions apparently satisfied Brazilian authorities (Associated Press 2008). Comparing the two cases, it is interesting that Google claimed in the Indian case that it had to comply with local law, but in the Brazilian case that it had to comply with United States law. Google can now claim with more consistency that it has to comply with the principles of the Global Network Initiative. But one question is whether a government will find compliance with an intercompany agreement as compelling a reason for disobeying its laws as compliance with United States law.

Yahoo's CEO Jerry Yang expressed a view similar to Google's position in India. Yang claimed he was "a big believer in American values" but added: "As we operate around the world we don't have a heavy-handed American view." Some countries want major interventions in the Web and others prefer to leave the Web unfettered. So, said Yang, "We operate within these environments to the extent that the law has any clarity" (Bartz and Dobbyn 2008). Yang's comments betray an ethical blindness which is actually contradicted by Yahoo's own actions even before the Global Network Initiative. Ethically, free speech is not just a mere matter of national preference. That would be like saying some nations prefer to oppress their citizens and others don't, and we are going to be neutral about it. The fact that Yahoo established a fund to aid victims of human rights violations shows that they really don't believe jailing people for expressing their opinions on the Internet is just a matter of national preference. I believe Yahoo's true position should have been that they regrettably had to obey Chinese law to stay in business there, but that they hoped Chinese law would be changed to accord with the standards of global justice. Their endorsement of the Global Network Initiative may now make it possible for them to refuse to go along with Chinese standards.

I believe that these cases show that, with respect to Internet access, our intuitive judgments about global justice are in accord with the Global Economy Greatest-Equal-Freedom Principle. These cases illustrate the consequence that professional Internet companies like Google and Yahoo have a duty to uphold the Global Economy Greatest-Equal-Freedom Principle. Their creation and implementation of the Global Network Initiative is a major step in fulfilling this duty. Although the fact that the Initiative is a voluntary agreement without mandatory penalties raises some concern, it may be the best that can be done at the present time. As I observed before, there is no way that repressive regimes which currently believe they have the right to suppress speech and violate privacy will agree to international treaties—let alone United States laws—banning such behavior.

THE INTERNET'S ETHICAL RESPONSIBILITY FOR GLOBALIZATION

Exactly how much of an enabler of globalization has the Internet been? I think there is no question that globalization as we now experience it could not have taken place without the Internet. This is especially true of economic globalization. But was globalization, especially economic globalization, inevitable once the Internet came along? The New York Times columnist Thomas Friedman seems to believe this—he calls himself a “technological determinist” (Friedman 2005: 374). If globalization is an inevitable consequence of the Internet, then the Internet is ‘off the hook’ ethically, so to speak. The Internet is simply an enabler for a process beyond its or anyone’s control.

But technological determinism is a very naïve view as well as a dangerous one. There are really two distinct views possible within technological determinism. One view is that the development of technology, the appearance of technological advances, is determined. I will call this view

advance determinism. The second view is that, once a technological advance appears, its widest useful application is inevitable. I will call this view *application determinism*. Application determinism is the dangerous view. Friedman is an application determinist. There is no evidence one way or the other that he is an advance determinist.

The danger in application determinism comes from the accompanying claim that technology (including the Internet) is always an improvement. This claim ignores the fact that technology is a new order imposed on an older order and can easily have deleterious side effects which cannot be prevented by due diligence in development. The development of chlorofluorocarbons (CFCs) is an example of such side effects. CFCs were inert at surface levels but highly destructive of the ozone layer necessary for life on the planet. So application determinism is as false as the view that new technology is necessarily an improvement.

Advance determinism is not a particularly dangerous view, but it is also clearly false. Most technological advances were not predictable and appeared only as a result of chance factors. In this respect, technological advance is similar to the evolution of organic life forms. Important technological developments have arisen in very unlikely ways, and certainly not as the result of predefined rigid research programs. This is especially true of the Internet and World Wide Web. The Internet itself was originally a United States Defense Department project, and such vital characteristics as no central computer were required to make the system impervious to nuclear attack. The World Wide Web was developed by Swiss physicist Tim Berners-Lee as a method of exchanging scientific information including both text and graphics. The web browser—essential to widespread use of the Internet—was developed by graduate students at the University of Illinois (Kristula 2001). A useful peer-to-peer file-sharing application (Napster) was developed by an undergraduate at Boston University (Wikipedia 2008). So the Internet technology necessary

for globalization was no more inevitable than was the rise of mammals after the age of dinosaurs.

The Napster example also shows the falsity of application determinism. Music companies used the courts to shut down a free music-sharing service in 2001. Several years later, some commentators believe the poor showing of the music industry stemmed from their failure to find a way to make money from peer-to-peer technology rather than shutting it down. However, the Napster example still supports a version of application determinism. For Friedman, the force which drives application determinism is competition within a free-market economy. He notes “if you can do it [apply the technology], you must ..., otherwise your competitors will” (2005: 374). In the case of the music industry, they didn’t, and merely worked through the courts to extend their (monopoly) property rights. Thus people can fail to exploit technologies, but ultimately the market will destroy them. This brand of application determinism is probably correct. But obviously it depends on the market functioning as a free market, without monopolistic or oligarchic impediments. Free-market application determinism is thus more-or-less the claim that a properly-functioning market economy will deliver good economic results. This is not a dangerous claim and is correct.

We are left with the ethical question: who is responsible for technology’s being used properly and beneficially? We have seen that many globalized institutions could probably not exist were it not for the Internet. Yet it cannot be correct to hold the Internet responsible for every bad consequence of every Internet application. For one thing, not all consequences are predictable, even with the best due diligence. For another, no institution is ethically responsible for all consequences of its actions.

BIBLIOGRAPHY

- Arrow, Kenneth. 1951. *Social Choice and Individual Values*. New York: John Wiley and Sons.
- Associated Press. 2008. "Google to Help Curb Web Porn in Brazil." April 9. Retrieved April 10 from news.yahoo.com.
- Bartz, Diane, and Tim Dobbyn. 2008. "Yahoo CEO: Gray Areas Make Foreign Business Hard." Reuters Limited, April 3. Retrieved April 3 from news.yahoo.com.
- BBC News. 2007. "Yahoo's China Policy Rejected." June 12. Retrieved December 2 from news.bbc.co.uk.
- Beitz, Charles. 1979, 1999. *Political Theory and International Relations*. Afterword 1999. New Jersey: Princeton University Press.
- Bridis, Ted. 2004. "Downloaders Hit Hard With Fines." *San Fernando Valley Daily News*, August 22.
- Earnhardt, John. 2006. "Cisco Q&A on China and Censorship." Retrieved August 27, 2011 from blogs.cisco.com/gov/cisco_qa_on_china_and_censorship/.
- Elias, Paul. 2007. "Yahoo, Jailed Journalists Settle Lawsuit." Retrieved November 13 from news.yahoo.com.
- FindLaw Legal News. 1984. "U.S. Supreme Court SONY CORP. v. UNIVERSAL CITY STUDIOS, INC., 464 U.S. 417." Retrieved May 30, 2004 from news.findlaw.com.
- Friedman, Thomas. 2005. *The World is Flat*. New York: Farrar, Straus and Giroux.
- Global Internet Freedom Consortium. 2008. "About Us." Retrieved October 17 from www.internetfreedom.org/about.
- Global Network Initiative. 2008. "Global Network Initiative." Retrieved November 11 from www.globalnetworkinitiative.org/.
- Goodman, Dean. 2008. "War against Web Tops Music Biz 'Screw-ups' List." Reuters, March 12. Retrieved March 14 from news.yahoo.com.
- Hernandez, Greg. 2004. "Taking Aim at Film Thieves." *San Fernando Valley Daily News*. November 5.
- Hosenball, Mark. 2011. "The WikiLeaks organization said Thursday it was releasing tens of thousands of previously-unpublished U.S. diplomatic cables, some of which are still classified." Retrieved August 27 from www.reuters.com/article/2011/08/26/us-wikileaks-idUSTRE7707PZ20110826.
- Institute for Local Self-Reliance. 2007. "Internet Sales Tax Fairness," *The New Rules Project*. Retrieved August 1, 2011 from www.newrules.org.
- Internet World Stats. 2007. Retrieved March 21, 2008 from www.internetworldstats.com.
- ITU. 2000. "Conclusions: The African Internet & Telecom Summit. Banjul, The Gambia 5-9 June 2000." Retrieved March 21, 2008 from www.itu.int/africainternet2000/conclusions.html.
- Jesdanun, Anick. 2008. "'Public' Online Spaces Don't Carry Speech Rights." Associated Press, July 6. Retrieved July 7 from yahoo.com.
- Kant, Immanuel. 1785. *Groundwork of the Metaphysics of Morals*. Retrieved on May 10, 2004 from www.swan.ac.uk/poli/texts/kant/kantcon.htm
- Kaiser Family Foundation. 2004. "Children, the Digital Divide, and Federal Policy." Retrieved on July 7, 2008 from www.kff.org/entmedia/upload/Children-The-Digital-Divide-And-Federal-Policy-Issue-Brief.pdf.

- Kravets, David. 2008. "Judge Backtracks: WikiLeaks Resumes U.S. Operations." February 29. Retrieved March 11 from blog.wired.com.
- Kristula, Dave. 2001. "The History of the Internet." Retrieved April 3, 2008 from www.davesite.com/webstation/net-history.shtml.
- Lewis, Martha Beth. 2001. "Music Length Protection." Retrieved March 1, 2007 from www.serve.com/marbeth/music_length_protection.html.
- MacDonald, G. Jeffrey. 2006. "Congress's Dilemma: When Yahoo in China's not Yahoo." *The Christian Science Monitor*, February 14.
- Microsoft. 2007. "MSFT Def 14A." Retrieved August 27, 2011 from [www.wikinvest.com/stock/Microsoft_\(MSFT\)/Internet_Censorship](http://www.wikinvest.com/stock/Microsoft_(MSFT)/Internet_Censorship).
- Nordstrom. 2004. Retrieved May 1, 2005 from Nordstrom.com.
- Rawls, John. 1999a. *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- Rawls, John. 1999b. *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- Ribeiro, John. 2008. "Google Defends Helping Police Nab Defamer. IDG News Service." May 19. Retrieved May 19 from news.yahoo.com.
- Risen, Tom. 2010. "Censorship Cases Revive Net Freedom Bill." *National Journal*. April 2. Retrieved August 27, 2011 from www.yhumanrightsblog.com/blog/2010/04/05/censorship-cases-revive-net-freed.
- Sarkar, Dibya. 2008. "Cisco Systems Denies Online Censorship Role in China." *The Associated Press*, May 20. Retrieved May 21 from news.yahoo.com
- Schultz, Robert. 2006. *Contemporary Issues in Ethics and Information Technology*. Hershey, PA: IRM Press.
- Schultz, Robert. 2010. *Information Technology and the Ethics of Globalization*. Hershey, PA: IGI-Global Press.
- Singer, Peter. 2004. *One World*. New Haven, CT: Yale University Press.
- Taglang, Kevin. 2001. "A Low-Tech, Low-Cost Tool for the Homeless." Retrieved June 19, 2004 from www.digitaldividenetwork.org/content/stories/.
- Thompson, Carolyn. 2011. "Innocent Man Accused Of Child Pornography After Neighbor Pirates His WiFi." Retrieved August 23 from www.huffingtonpost.com/2011/04/24/unsecured-wifi-child-pornography-innocent_n_852996.html.
- Todorov, Tzvetan. 2001. *The Fragility of Goodness*. Princeton, NJ: Princeton University Press.
- U.S. Department of Commerce. 2000. *Falling Through the Net*. Retrieved June 19, 2004 from www.ntia.gov/ntiahome/fftn00/confer.
- Wikipedia. 2008. "Napster." Retrieved April 3 from en.wikipedia.org/wiki/Napster.
- Wikipedia. 2010. "Citizens United v. Federal Election Commission." Retrieved August 23, 2011 from en.wikipedia.org/wiki/Citizens_United_v._Federal_Election_Commission.
- Williams, Carol J. 2011. "Match.com Agrees to Screen for Sex Offenders to Settle Lawsuit." *Los Angeles Times*, August 24.
- Wong, May. 2004. "No-go for TiVo? Studios Contest Mobility Plans." *San Fernando Valley Daily News*. July 23.

>> Principles necessary for dealing with ethical problems of the Internet are largely based on individual and social principles. I outline the necessary individual, social, and global principles, based on Kant's Categorical Imperative and Rawls' social contract principles of justice. Using these principles, the individual ethical problems of sex on the internet and "piracy" are discussed. The social ethical problems discussed are the Digital Divide and sales tax on Internet transactions. The global ethical Internet issues considered are Internet free speech, the regulation of websites with global presence, and the role of the Internet in facilitating globalization.

ROBERT A. SCHULTZ

Woodbury University

University of Oregon

III. ETHICS IN DEVELOPMENT, POVERTY AND ENVIRONMENT

ETHICS AND POVERTY

Peter Singer

THE ARGUMENT FOR AN OBLIGATION TO ASSIST

Suppose that on your way to have lunch with a friend you pass a shallow ornamental pond, and notice that a small child has fallen in and is in danger of drowning. Should you wade in and pull the child out? This will mean getting your clothes muddy, ruining your shoes—you do not have time to take them off—and missing your lunch; but compared with the avoidable death of a child none of these things are significant.

A plausible principle that would support the judgment that you ought to pull the child out is this: if it is in our power to prevent something very bad happening, without thereby sacrificing anything of comparable moral significance, we ought to do it. This principle seems uncontroversial. It will obviously win the assent of consequentialists (those who think we ought to do whatever would have the best consequences); but non-consequentialists should accept it too, because the injunction to prevent what is bad applies only when nothing comparably significant is at stake. Thus the principle cannot lead to the kinds of actions of which non-consequentialists strongly disapprove—serious violations of individual rights, injustice, broken promises, and so on. If non-consequentialists regard any of these as comparable in moral

significance to the bad thing that is to be prevented, they will automatically regard the principle as not applying in those cases in which the bad thing can only be prevented by violating rights, doing injustice, breaking promises, or whatever else is at stake. Most non-consequentialists hold that we ought to prevent what is bad and promote what is good. Their dispute with consequentialists lies in their insistence that this is not the sole ultimate ethical principle: that it is an ethical principle is not denied by any plausible ethical theory.

Nevertheless the uncontroversial appearance of the principle that we ought to prevent what is bad when we can do so without sacrificing anything of comparable moral significance is deceptive. If it were taken seriously and acted upon, our lives and our world would be fundamentally changed. For the principle applies, not just to rare situations in which one can save a child from a pond, but to the everyday situation in which we can assist those living in extreme poverty. In saying this I assume that extreme poverty, with its hunger and malnutrition, lack of shelter, illiteracy, disease, high infant mortality and low life expectancy, is a bad thing. And I assume that it is within the power of the affluent to reduce such poverty, without sacrificing anything of comparable moral significance. If these two assumptions and the principle we have been discussing are correct, we have an obligation to help those in absolute poverty that is no less strong than our obligation to rescue a drowning child from a pond. Not to help would be wrong, whether or not it is intrinsically equivalent to killing. Helping is not, as conventionally thought, a charitable act that it is praiseworthy to do, but not wrong to omit. It is something that everyone ought to do.

This is the argument for an obligation to assist. Set out more formally, it would look like this.

First premise: If we can prevent something bad without sacrificing anything of comparable significance, we ought to do it.

Second premise: Extreme poverty is bad.
Third premise: There is some extreme poverty we can prevent without sacrificing anything of comparable moral significance.
Conclusion: We ought to prevent some extreme poverty.

The first premise is the substantive moral premise on which the argument rests, and I have tried to show that it can be accepted by people who hold a variety of ethical positions.

The second premise is unlikely to be challenged. It would be hard to find a plausible ethical view that did not regard extreme poverty, with the suffering and deaths of both adults and children that it causes, not to mention the lack of education, sense of hopelessness, powerlessness and humiliation that are also its effects, as a bad thing.

If we can prevent something bad without sacrificing anything of comparable significance, we ought to do it

The third premise is more controversial, even though it is cautiously framed. It claims only that some extreme poverty can be prevented without the sacrifice of anything of comparable moral significance. It thus avoids the objection that any aid I can give is just “a drop in the ocean” for the point is not whether my personal contribution will make any noticeable impression on world poverty as a whole (of course it won't) but whether it will prevent some poverty. This is all the argument needs to sustain its conclusion, since the second premise says that any extreme poverty is bad, and not merely the total amount of extreme poverty. If without sacrificing anything of comparable moral significance we can provide just one family with the means to raise itself out of extreme poverty, the third premise is vindicated.

I have left the notion of moral significance unexamined in order to show that the argument does not depend on any specific values or ethical principles. I think the third premise is true for most people living in industrialized nations, on any defensible view of what is morally significant. Our affluence means that we have income we can dispose of without giving up the basic necessities of life, and we can use this income to reduce extreme poverty. Just how much we will think ourselves obliged to give up will depend on what we consider to be of comparable moral significance to the poverty we could prevent: stylish clothes, expensive dinners, a sophisticated stereo system, exotic holidays, a luxury car, a larger house, private schools for our children . . . For a utilitarian, none of these is likely to be of comparable significance to the reduction of extreme poverty; and those who are not utilitarians surely must, if they subscribe to the principle of universalizability, accept that at least *some* of these things are of far less moral significance than the extreme poverty that could be prevented by the money they cost. So the third premise seems to be true on any plausible ethical view—although the precise amount of extreme poverty that can be prevented before anything of moral significance is sacrificed will vary according to the ethical view one accepts.

I will now consider three objections to this argument.

DOES AID REALLY DO ANY GOOD?

Some argue that we can't have any confidence that our donations to an aid organization will save a life, or will help people to lift themselves out of extreme poverty. Often these arguments are based on demonstrably false beliefs, such as the idea that aid organizations use most of the money given to them for administrative costs, so that only a small fraction gets through to the people who need it, or that corrupt governments in

developing nations will take the money. In fact, the major aid organizations use no more than 20% of the funds they raise for administrative purposes (and often considerably less than that), leaving at least 80% for the programs that directly help the poor, and they do not donate to governments, but work directly with the poor, or with grassroots organizations in developing countries that have a good record of helping the poor.

Measuring the effectiveness of an aid organization by the extent to which it can reduce its administrative costs is, however, a common mistake. Administrative costs include the salaries of experienced people who can ensure that your donation will fund projects that really help the poor in a sustainable, long-term way. An organization that does not employ such people may have lower administrative costs than one that does, but it will still achieve less with your donation. It is very important to give to charities that are effective in reducing extreme poverty, and its consequences. Fortunately there are now other organizations, specializing in the evaluation of organizations working to reduce extreme poverty, and they can help us find out which charities are truly effective.

There may still be some people who regard global poverty as a kind of black hole, into which we pour money. But we are making progress

GiveWell is one such organization. It has, for example, compared the cost per life saved of various organizations which work to combat the diseases that kill many of the 8.1 million children who die each year from poverty-related causes. According to GiveWell, there are several organizations that can save a life for somewhere in the range of US\$600–US\$1200, and on the GiveWell website (www.givewell.org), you

can see which it ranks most highly. Since you can give to one of the top-ranked organizations, it seems clear that the third premise of the argument is true for people who spend at least a few hundred dollars a year on things they do not really need. They can save a life, or prevent some extreme poverty, without sacrificing anything of comparable moral significance.

There may still be some people who regard global poverty as a kind of black hole, into which we pour money, and never make any progress. But we are making progress. That estimate I just mentioned, that about 8.1 million children under 5 die every year from avoidable, poverty-related causes, comes from UNICEF, the United Nations Children's Fund. That figure is shocking—it's about 22,000 children dying every day—but fortunately it has been dropping. If you pick up the 2010 paperback edition of my book, *The Life You Can Save*, the figure it gives is 8.8 million. In the 2009 hardcover edition, the figure was almost a million more. In fact, going right back to the 1960s, the figure was as many as 20 million children a year. When you consider that the world's population in the 1960s was only about half of what it is today, we have made encouraging progress. As a percentage of the world's population, the number of children who die before they reach the age of 5 from poverty-related causes is below a quarter of what it was fifty years ago. So this is not an insoluble problem; it's not a black hole that we just pour money into without seeing any results. We do see results, but we are still in a situation where far too many children are dying each day because of this preventable poverty. This is something that we could do something about. We know what to do. We're immunizing more children against measles. We're providing safe drinking water for more villages. We're providing local health clinics with very simple treatments for diarrhoea. We're providing more people with bed nets so their children don't get malaria, another major killer of children.

IS THERE A CONFLICT BETWEEN REDUCING POVERTY AND PROTECTING THE ENVIRONMENT?

Concern for the poor appears to be in tension with the need to protect our environment. Is there any point in saving lives if the people whose lives are saved will continue to have more children than they can feed, so that in another generation there will be even more hungry people seeking assistance? Don't rising populations in developing countries increase the pressure on forests and other ecosystems, often the last refuge of endangered species of plants and animals? It is undeniable that saving innocent human lives is good, but how do we balance that good against the loss of extinction? Then there is climate change. How would the world cope if everyone were to become affluent and seek a lifestyle that consumes as much energy, per capita, as those who are affluent today?

Part of the answer—the easy part—is that poverty reduction and environmental values often point in the same direction. It is simplistic to assume that helping more children to survive to reproductive age is bound to increase population in poor countries. One important reason why poor people have large families is that they need to be sure that one or two of their children will survive to take care of them in their old age. As parents grow more confident that their children will live to adulthood, they have fewer children. If they no longer need child labor to grow food, that removes another reason for having children. Most important of all, if reducing poverty makes it possible for families to send their children—especially their daughters—to school, all the evidence indicates that their children will have smaller families than they otherwise would. That tendency will be reinforced if women have opportunities to work outside the home. Obviously, access to family planning helps too. So in several different ways, what reduces poverty and promotes development also reduces population growth. If we look at what has happened to population growth in developed countries, this shouldn't come as a surprise.

This has consequences for preserving forests in developing countries. In the long run, aid for schools and local health clinics will often be the most effective way to reduce the population pressures that lead to turning forests into fields. But we shouldn't pretend that there is bound to be this kind of harmony between economic development and environmentalism. Some development projects provide employment opportunities for the poor, but at a high environmental cost. From Indonesia to Brazil, vast areas of tropical rainforest have been cleared to grow palm oil, or soybeans, or to graze cattle. The destruction of forests destroys ecosystems, and releases huge quantities of carbon, thus accelerating climate change.

In tropical Africa, logging roads through jungles offer new opportunities to impoverished villagers, who may get work with the logging companies, or may find it easier to get their local products to markets. Among these local products, however, is "bushmeat"—a general term that covers meat from any wild animal, and includes the flesh of chimpanzees and gorillas. Improved access to hitherto remote jungles and the incentive of cash payment has led to widespread hunting that has slashed the numbers of many of the hunted species.

What should we do? Sometimes we should choose to protect the environment, and the nonhuman animals that depend on it, even if that denies economic opportunities to some people living in extreme poverty. Areas rich in unique biodiversity are part of the world's heritage, and ought to be protected. We should, of course, try to find alternative environmentally sustainable opportunities for those living in or near these areas. If protecting a world heritage benefits all of us, it is unreasonable to expect local residents to bear the full cost—in terms of economic opportunities foregone—of that protection.

We should help today's global poor, but not at the expense of tomorrow's global poor. To preserve the options available to future generations, we

should aim at development that does not do further damage to wilderness or to endangered species—and will eventually, I hope, lead to greater respect for the interests of all other sentient beings, who should also count in their own right. We should also seek development that brings us closer to a demographic transition that in turn stabilizes global population at a sustainable level.

It is clear, though, that the planet cannot sustain 6 billion people at the level of the most affluent billion in the world today, consuming the resources and emitting the greenhouse gases that we are emitting. Climate change is a dire threat to all the progress we have made in reducing global poverty.

The failure of the major industrialized nations to reduce their greenhouse gas emissions to a level that will not cause serious adverse effects to others is moral wrongdoing on a scale that exceeds even the wrongdoing of the great imperial powers during the era of colonialism. Even those who think that we have no obligations to help anyone beyond our borders will, I hope, agree that we have obligations not to harm them—and harming them is exactly what we are doing. According to the World Health Organization, the rise in temperature that occurred between the 1970s and 2004 is causing an additional 140,000 deaths every year (roughly equivalent to causing, every week, as many deaths as occurred in the terrorist attacks on September 11, 2001). The major killers are climate-sensitive diseases such as malaria, dengue, and diarrhoea, which is more common when there is a lack of safe water. Malnutrition resulting from crops that fail because of high temperatures or low rainfall is also responsible for many deaths. Fertile, densely settled delta regions in Egypt, Bangladesh, India and Vietnam are at risk from rising sea levels.

In 2007 the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, the scientific body established by the United Nations

Environment Program and the World Meteorological Association, found that a temperature rise, by 2080, in the range of 2.0–2.4° C would put stress on water resources used by 1.2 billion people. Rising sea levels would expose, each year, an additional 16 million people to coastal flooding. A temperature rise limited to 2.0° C by 2080 now seems about the best we can hope for, and recently there have been alarming indications that sea level rises could be much greater than the Fourth Assessment Report anticipated. *Perhaps* a technological miracle is just around the corner, one that will enable everyone in the world to consume energy at something like the levels at which we consume it, without bringing about disaster for everyone. It isn't ethically defensible, however, to do nothing while hoping for a miracle, given that it will be others, not us, who suffer the gravest consequences if that miracle never occurs.

Climate change is a dire threat to all the progress we have made in reducing global poverty

There is a strong moral case for saying that rich nations should cut back on their “luxury emissions” before poor nations have to cut back on “subsistence emissions.” India still has more than 450 million people living in extreme poverty, and China over 200 million. No one with any concern for human welfare could ask the world's poor to refrain from increasing their greenhouse gas emissions in order to put more food on the table for their families, when we think little of flying down to the tropics for a winter vacation, emitting more greenhouse gases in a week than the typical family in a developing country does in a year. Needs should always take precedence over luxuries.

So all of us living comfortably in industrialized nations should be prepared to change our lifestyles in order to protect the environment and reduce the chances that climate-related catastrophes will harm ourselves and

others. We should use more energy from sources other than fossil fuels, use less air-conditioning and less heat, fly and drive less, and eat less meat, for meat production is a major source of greenhouse gas emissions. Those are things that we ought to start doing now, for our own sake, for the sake of the global poor, and for the sake of future generations everywhere.

HOW DEMANDING CAN OUR OBLIGATIONS BE?

There is a different kind of objection to my argument for aid that must also be taken seriously. This is that to set so high a standard is likely to be counterproductive. If we argue that people are obliged to give to the point at which by giving more we sacrifice something of comparable moral significance, many will just throw up their hands and say “If that is what morality demands, too bad for morality.”

Is it true that the standard set by our argument is so high as to be counterproductive? There is not much evidence to go by, but discussions of the argument with students and others have led me to think it might be. On the other hand the conventionally accepted standard—a few coins in a collection tin when one is waved under your nose—is obviously far too low. What level should we advocate? In my book *The Life You Can Save*—and on the corresponding website, www.thelifeyoucansave.com—I have suggested a progressive scale, like a tax scale. It begins at just 1% of income, and for 90% of taxpayers, it does not require giving more than 5%. This is therefore an entirely realistic amount, and one that people could easily give with no sacrifice—and indeed, often with a personal gain, since there are many psychological studies showing that those who give are happier than those who do not. I do not really know if the scale I propose is the one that will, if widely advocated, achieve the greatest total amount donated. But I calculated that if everyone in the affluent world

gave according to that scale, it would raise US\$1.5 trillion dollars each year—which is eight times what the United Nations task force headed by the economist Jeffrey Sachs calculated would be needed to meet the Millennium Development Goals, set by the leaders of all the world's nations when they met at the UN Millennium Development Summit in 2000. Those goals included reducing by half the proportion of the world's people living in extreme poverty, and the proportion of people who suffer from hunger, as well as reducing by two-thirds the death toll among children under 5—thus saving more than 5 million lives every year—and enabling children everywhere to have a full course of primary schooling.

If everyone with abundance were to contribute to the effort to reduce extreme poverty and all that goes with it, the amount each of us would need to give would be quite modest

This surprising outcome—that if everyone with abundance were to contribute to the effort to reduce extreme poverty and all that goes with it, the amount each of us would need to give would be quite modest—shows that the argument with which this essay began is demanding only because so few of those with the ability to help the poor are doing anything significant to help them. We do not need to transfer half, or a quarter, or even a tenth, of the wealth of the rich to the poor. If few are helping, those few have to cut very deep before they get to the point at which giving more would involve sacrificing something of comparable moral significance to the life saved by their gift. But if we all, or even most of us, gave according to the scale I have suggested, none of us would have to give up much. That is why this is a suitable standard for public advocacy. What we need to do is change our public ethics so that for anyone who can afford to buy luxuries—and even a bottle of water is a luxury if there is safe drinking water available free—giving something

significant to those in extreme poverty becomes an elementary part of what it is to live an ethical life.

WHY DON'T PEOPLE GIVE MORE?

If the arguments for doing more to reduce extreme poverty are so clear, why aren't we doing that already? There are many reasons for that. Some of these are psychological reasons rather than ethical issues. But a lot of the things that people think of as somehow making a difference, I would say only make a psychological difference, not a real ethical difference. So, for instance, you all agreed that we should help the child in the pond, and probably you all would help the child in the pond if you were to find yourself in that situation. Why don't you all then help people elsewhere in the world? Part of the psychological problem is that they're not here in front of you, and you're not in a one-to-one situation where you can see that you can make a difference. Psychologists have studied a variety of different phenomena that are relevant to when a person will help a stranger. I've come to realize in looking at this literature that, when I came up with that example of the child drowning in the pond, I had unconsciously produced an example that is really well suited to drawing emotional responses, much better suited in fact than the global poverty issue is. So, for example, there is an identifiable victim that you're helping. This makes a huge difference.

Here's an example of the kind of study that shows it does. Psychologists ask students to come in for an experiment and offer them US\$15. When the students come in for this experiment; they're told, "Here's a questionnaire. Please fill it in. Hand it in. We'll pay you your US\$15." So they fill in the questionnaire, which of course has nothing to do with the experiment. They hand in the questionnaire at the end, and they're given US\$15 in cash in small bills, and they're told, "By the way, each month our

department supports a charity. Here's some information about the charity we're supporting this month. I wonder if you'd like to give some of your earnings to the charity." Then, randomly selected, half of the students get a piece of information which has a picture of a 7-year-old African girl, and it says, "This is Rokia; she's 7 years old; she lives in Malawi; she goes to bed hungry at night because her family can't provide enough food for her. You can help her." The other half are given a piece of information that has no photo, and says, "In Malawi, thousands of children go to bed hungry at night. You can help them." Sounds like pretty similar information you're being given, isn't it? Except that in one case there's an identifiable person. But surely nobody thinks, "Oh, yes, the money that I give and that everybody else here this month gives, is all going to Rokia." That would be a bit odd, wouldn't it, for the department just to collect for Rokia this month. That would mean that she would become quite wealthy by Malawian standards. So the students can't really think that. Yet, by quite a significant amount, more people give when they're given the information about Rokia than when they're given the general information.

So the fact that we're talking about anonymous masses of people, millions of people even, makes us less likely to respond. That's one important factor. Another factor is, in the example of the pond there was only you, remember; it was up to you to save the child. It's not up to you to save even Rokia, even if you're given a name, it's not up to you alone. Everybody's being given this information. We know there are other people in the world who could help at least as well as we could. In fact, obviously there are some people who could help much better than we could. What about Bill Gates? Why isn't he helping? Actually he is helping. No doubt there are other very wealthy people who aren't helping that much. So that's another phenomenon that psychologists have studied, the diffusion of responsibility. Again, you can show quite easily, if you stage an accident in which there's a victim who needs help, and there's only one person there who can help the accident victim, that person's very likely to help.

On the other hand, if that person is only one of half a dozen, and the other half dozen are all the experimenter's stooges who have been told not to go and help the accident victim then the person who is the naïve subject, as psychologists call them, the one who doesn't know that this has all been rigged, is much less likely to go and help. In other words, basically, we're sheep. We follow the leader; we don't often stand up and think for ourselves.

We need to try and change these variables. We need to change the cultural standard so that giving becomes more normal. That's one of the things I'm trying to do with the website I mentioned earlier, www.thelifeyoucansave.com. I've invited people to go there and pledge to give a certain percentage of their income to help the global poor. I hope that this will make it easier for others to go on and pledge, because they can see they are not alone in doing this. Some of them also have contributed photos of themselves and a line or two as to why this is significant and why it makes a difference. That's an attempt to change our culture so that instead of thinking that all you have to do to live a good life, an ethical life, is to obey the "thou shalt not" types of commandment—not cheat, steal, lie, attack others, and so on—, we come to see that we have some positive obligations to help those in need where we can relatively easily do so. That would be a really important change in our world today. That would make a really significant difference.

WHERE DO OUR REAL INTERESTS LIE?

We are very much focused on thinking about our interests in terms of how much money we have. But when we stop and think about it, none of us would really say that the most important thing in life is to have a big bank balance. We would probably say, "Well, yes, you know it's nice to have a big bank balance, but that's because then you can do a variety of things and

you'll be happier." But what has become clear is that people who are involved in causes larger than themselves, and who contribute to charity of various kinds, say that they are more satisfied with their lives than people who don't. That finding comes out again and again in the general well-being surveys that have been taken for many years in a large number of different countries.

We're even starting to understand the mechanisms of this because we now have the ability to take real-time images of what happens in people's brains when they do various kinds of things. This has been done (admittedly the study I am about to cite was a small one, and it would be good to have it replicated) with people who have been given some money and asked if they want to make a donation to a charity. Now, whether they say "yes" or "no" to that is not something the experimenter knows; it's done anonymously. So the reaction that I'm about to talk about is not related to the subjects knowing that they are enhancing their public reputation, as some cynics might say. Yet, with those people who do decide to give, we can see a spike in activity in the reward centers of the brain, the same areas of the brain that are active when we're doing things that we enjoy, whether it's a particular kind of food that we find delicious or sexual activity that we're enjoying or whatever else it might be. It seems that they reward us for being generous as well as doing those other pleasant things. Exactly why is an interesting question. No doubt it has something to do with the circumstance in which we evolved in societies where giving was something that enhanced our survival value in a community that required some sort of cooperation. I'm arguing that we should extend that beyond the immediate face-to-face community, to the world as a whole. It seems that the same mechanisms are there.

In terms of the way we live our lives, we are likely to find involvement in these larger causes is actually rewarding and fulfilling, something that enables us to feel that our lives are more meaningful than they are if we

are simply living for ourselves and thinking only about our own narrower self interest. So while giving to help the global poor may involve some financial sacrifice, we should not think of it as involving any sacrifice of our real interests, properly understood. On this issue of global poverty, therefore, ethics and self-interest are not as much at odds as one might at first imagine. There is, on the contrary, a considerable degree of harmony between them.

>> All citizens of wealthy, industrialized nations have an obligation to reduce extreme poverty. So why don't we give more? We're afraid aid doesn't work. We're afraid of the environmental damage brought by increased wealth. We don't want to renounce our own comfort. But none of these reasons is valid. Aid does work and we have the data to prove it. Furthermore, poverty reduction and environmental protection often coincide, and even when they don't, there is still a strong moral case for saying that rich nations should cut back on their "luxury emissions" before poor nations have to reduce their subsistence emissions. Ultimately, it is in our own interest to end extreme poverty, a goal that could be achieved if each one of us were to give up just a fraction of what we own.

PETER SINGER

Princeton University

RE-EXAMINING THE RELATIONSHIP BETWEEN ETHICS AND THE ECONOMY:

Some Explanatory Notes for Action

Bernardo Kliksberg

A THIRST FOR ETHICS IN THE ECONOMY

The Edelman Trust Barometer Poll 2011, conducted among the richest 25% of the population of 23 countries on five continents and with a total sample of 5,075 interviewees, produced clear confirmation of the widespread social demand for ethics in the economy that is now widespread in much of the world.

The poll asked the socio-economic elite interviewed, who are very influential in their respective countries, “Should companies create value for shareholders aligned with the interests of society even when that means sacrificing the value of the shares?” The overwhelming response was “yes.” Replying affirmatively as follows were: Germany (91%), Great Britain (89%), China (89%), United States (85%), Mexico (85%), Canada (82%), the Netherlands (81%), Sweden (81%), India (74%), France (72%) and Spain (71%).

As we see, the world’s socio-economic elite now firmly back the idea of corporate social responsibility. But they are also very exigent. In their opinion isolated improvements are not sufficient. Rather, they believe that an entirely new concept of the role of companies in the 21st century is

needed, in which the common good is not an objective subject to compromise.

The same thirst for ethics is reflected in the controversy created by one of the most successful financiers of the last fifty years, Warren Buffett, which has caused a worldwide stir. In his article in *The New York Times* (14/8/2011), "Stop Coddling the Super-Rich," Buffett calls for the "shared sacrifices" required by the state of the American economy to be made, and therefore the taxes on the mega-rich like him to be raised. He states that the percentage of taxes paid by him last year on his taxable income was 17.4%, "a lower percentage than was paid by any of the other 20 people in our office. Their tax burdens ranged from 33% to 41% and averaged 36%." Buffet says that this is unfair and suggests that the tax rate for the super rich should be raised. He rejects the argument that this could reduce investment: "I have worked with investors for 60 years and I have yet to see anyone ... shy away from a sensible investment because of the tax on the potential gain. People invest to make money, and potential taxes have never scared them off." He concludes in essentially ethical terms: "My friends and I have been coddled long enough by a billionaire-friendly Congress. It's time for our government to get serious about shared sacrifice."

Buffet's call for action in the United States was accompanied by other similar calls in France, Germany and Italy, which were also based on confronting the ethical dilemmas latent in the situation. Sixteen of the most successful entrepreneurs in France, in a joint declaration, requested President Nicolas Sarkozy to raise taxes on the richest people. Among them were the presidents of L'Oreal and the Total oil company. In Italy, one of the richest, the owner of Ferrari, Luca di Montezemolo, said it was only fair that the rich should pay more. In Germany an organization was founded called "the rich for a higher rate for the richest." Its leader, Dieter Lehmkuhl, said: "We don't need all this money to live." The organization's

original manifesto declared: “We want to set an example of how the wealthy are able to commit to more towards overcoming the economic and financial crisis.”

The new interest in ethics applied to the economy is also reflected in numerous signs of the credibility now enjoyed by the non-governmental organizations and social entrepreneurs.

Polls in different countries, among which is Spain, show that the NGOs are the institutions with the greatest credibility. *The Economist* magazine (2010) makes a significant remark about the chain reaction started by those who undertake social projects to help the most disadvantaged. It says, “A decade ago the term ‘social entrepreneur’ was rarely heard. Now everyone wants to be one, from London to Lagos. The lectures on social entrepreneurs are invariably the most in demand by students at the main business schools.”

The interest in ethics in the economy is fed by the weight of the lack of ethical values in generating the financial crisis on Wall Street in 2007–2008 which was propagated throughout the globalized world, and also by the size of the disparities in our times, which were carefully analyzed in the *Caritas in veritate* encyclical (2009), as follows:

Global wealth grows in absolute terms, but inequalities also grow. In the rich countries new social categories become impoverished and new types of poverty are created. In the poorest regions some groups enjoy a type of wasteful and consumerist super-development that contrasts unacceptably with persistent situations of dehumanizing misery.

In fact, as *The Economist* points out, 1% of the world population currently owns 43% of the world’s assets, The richest 10% owns 83% of them. At

the same time, 50% of the world population with the lowest income has 2% of the assets. The Vatican encyclical calls this situation “the scandal of the damaging disparities.”

Apart from their economic contraindications, the great inequalities also have very direct consequences on the lives of people who thwart basic ethics.

In their work *The Spirit Level*, Wilkinson and Pickett (2010) make comparisons, with detailed statistics, between more and less unequal countries: the greater the inequality, the more crime, the greater infantile mortality, the more obesity, the more adolescent pregnancies, the greater gender discrimination and the lower life expectancy.

The demand for ethics in the economy is growing in the world. Ethics are expected from politicians and governmental authorities, but also from businessmen and companies. This demand forms part of a deeper view. There is a perception that the debate on ethics in general has been marginalized from the collective agenda.

A prominent philosopher, Charles Taylor, claims that discussion is limited to “means,” such as technologies and money, but that any talk about the ultimate objectives to which these means should be applied has been sidelined. These ultimate aims—the meaning of life, the right profile for a society, the core values that must be respected, such as reinforcing the family which is the pillar of society?do not form part of the main debates.

THE IMPACT OF THE ETHICAL LACUNAE ON THE WORLD ECONOMIC CRISIS

The world economy is undergoing the most acute crisis since the Great Depression of 1929. Originating in the 2007–2008 Wall Street financial

crisis, in 2011 it provoked a marked fall in the gross domestic profit world-wide of 2.6%, and a drop of 11.1% in world trade. The most recent data predict an uncertain future.

The American economy, which produces 25% of the gross world profit, is growing very weakly and has been unsuccessful in its attempts to lower the unemployment rate. *The Economist* reckons that it will grow only 1.6% in 2011, and 2% in 2012. With 9.1% unemployment, that means 14 million people out of work. If to that number are added the under-employed and those who have left the labor market, the figure goes up to more than 16%. The United States Census Bureau reported (on September 14th, 2011) that poverty had reached 46.2 million (15.1% of the population)—the largest figure since it started to be measured 52 years ago. Even worse are the poverty figures on Latinos (26.6%) and colored people (27.4%). It is estimated that there are 50 million people without medical insurance and 40 million recipients of food stamps (a federal subsidy for purchasing food for people suffering extreme poverty).

The growth forecasts for the Eurozone, according to *The Economist*, are 1.7% in 2011 and 1% in 2012. The rate of open unemployment is 10%, while that of young people in different countries exceeds 25%. The estimations for the world economy have been adjusted downwards in the second half of the year, and it is predicted that it will not grow more than 4% in 2011 and 2012.

Multiple factors of a different nature influenced the generating of the current crisis. Among them, “ethical lacunae” played an important role, as seen in the conduct of the key economic agents. This was recorded, among other sources, by interpellations in the United States Congress regarding the crisis, the reports produced by the committees set up by Congress to investigate, the Organization for Economic Cooperation and Development (OECD) analyses, and numerous investigations.

Among the main ethical problems that had an effect on the crisis were those outlined below.

The demand for ethics in the economy is growing in the world, it forms part of a deeper view. There is a perception that the debate on ethics in general has been marginalized from the collective agenda

The failures in corporate government

The Secretary General of the OECD, Angel Gurría (2009) analyzed the crisis as follows:

The current economic crisis is costing the world trillions of dollars, millions of jobs, a great loss of confidence in the financial markets, and a regression in our efforts to reduce global poverty. It is the result of a combination of severe failings. The failure in corporate ethics is one of them—one that is at the epicenter of this financial and economic earthquake.

A report by the OECD Corporate Government Group (Kirkpatrick 2009) concludes in the same way: “The financial crisis can be attributed to a large extent to the failings and weaknesses in corporate government.”

The study by the OECD Group found, among other things, “distorted incentive systems.” Thus, in different cases the remuneration for chief executives of important business organizations was linked to the latter’s short-term earnings. That stimulated conduct which stuffed the companies’ assets with “subprime mortgages” and financial products without a solid base in real assets. The supervision of these executives by the governing boards proved to be ineffective, according to the OECD

group. The desirable relationship between the fulfillment of objectives and remuneration was largely lost.

The tendency towards speculation

President Obama often refers to the causes of the crisis, emphasizing the role of what he calls “unbridled greed.” In a recent speech, the Dalai Lama, Nobel Prize laureate,¹ said that when he asked a prominent American businessman about the reason for the crisis, he gave him the same reply.

The pursuit of maximizing immediate gains through short-term transactions aimed at producing deliberate losses in the stock of banks in difficulties, and other forms of speculation which, according to UN data, currently also exist in the food market, deepened the crisis.²

In the midst of the crisis, in 2009, in a hitherto-unheard-of measure, the United States Securities and Exchange Commission banned the short-selling of 800 shares for a limited period of time. This measure was recently repeated in several European countries.

The Commission’s Chairman, Christopher Cox contended that this measure was necessary “in order to ensure that undercover manipulation, illegal naked short-selling (in which the shares were not even delivered) and illegitimate commercial practices would not drive market behavior and undermine confidence.”

¹ Dissertation by the Dalai Lama at the World Congress on Ethical Values, Monterrey, Mexico, September 9th, 2011, in a joint session with Nobel Peace Prize laureate Shirin Ebadi and the author.

² Further information can be obtained from the interview of the UN Rapporteur on the right to food (De Schutter 2011).

The deficient ethical training of managers

American society asked itself, “How did executives, graduated with MBAs from the best business schools, act so unethically?”

Amitai Etzioni, Professor Emeritus at George Washington University, called upon the United States Congress, through *The Washington Post* (2002), to add the deans of the business schools to their list of those interpellated “in order to explain to the public how ethics were taught in their schools.”

Evaluations carried out by the respected Aspen Institute revealed the extremely poor training in ethics offered by the business schools. The most advanced management technologies are taught, but not the social responsibility intrinsic to their application.

The Wall Street Journal published (Canales, Massey, Wrzesniewski) that when students at the main business schools were asked about the qualities necessary to be a successful manager, they suggested first of all vision and perspicacity, whereas honesty and responsibility were only mentioned after much discussion. And it concluded, “Some experts believe that the schools should train managers in aspects strictly related to business strategies, such as negotiation, incentives, etc., and leave the teaching of values to other people. We cannot disagree more.”

Piper, a leader at Harvard in the efforts to strengthen ethics teaching in the MBAs, stated that “in the managerial curricula the emphasis in on quantification, formal models and formulas, while the application of good judgment and debate on values are minimized [...] the students assume that these are not important.”

Gentile says in *The Financial Times* that this atmosphere creates the belief that the way for a student to show that he is clever is by arguing that market competition does not allow for personal morality.

There is currently a great reaction against the role that moral fallacies played in the crisis. The president of Harvard, Drew Faust, broke with the tradition whereby the deans of the Harvard Business School were professors of economics or finance, when she appointed Nithin Nhoria, professor of leadership and ethics as the new dean. The dean has emphasized (Lauerman, 2010) that “the crisis has deeply undermined the confidence of society in companies and also in management education.”

A unilateral view of the economy

Underlying the crisis was the idea that the markets should be deregulated. It was pointed out that during the previous United States Administration a drastic weakening of the regulatory legislation and the bodies responsible for applying it had taken place. The gamble was that the markets would regulate themselves.

This did not happen in practice. The elimination of basic regulations encouraged the emergence of “perverse incentives” and practices such as the gigantesque fraud perpetrated by the Madoff fund although the regulatory authorities had been receiving continuous reports about it since 1992.

When the United States Congress interpellated Allan Greenspan, who had been Chairman of the Federal Reserve for 20 years and a champion of deregulation, he replied (2009),

I am absolutely dumbfounded [...] We believed that the financial institutions would regulate themselves and would protect

the interests of their shareholders, but they didn't do so. [...] The entire intellectual edifice that we built has collapsed.

The mistakes and the lack of ethical empathy for the protection of the collective interest implied in this view of the applied economy was highlighted from different quarters.

President Nicolas Sarkozy of France said that “a certain idea of globalization is dying with the end of financial capitalism that imposed its logic on the entire economy and contributed to perverting it.” *The New York Times* wrote in an editorial that, “the crisis could have been averted if the regulators had applied the rules and governmental civil servants had questioned the high-risk loans and other doubtful practices.”

The combination, among other factors, of corporate failings in ethical aspects, systematic speculative conduct, the meagre ethical training of executives and the abandonment by public policy of the protection of the collective interest in basic issues, were a crucial part of the grave current crisis. The world is reminded that an economy without ethics can constitute a danger. Adam Smith, the founder of modern economics, already anticipated this 200 years ago when, in 1759, he pointed out that markets should be governed by certain ethical values because, if not, there would be serious dangers. He emphasized very specifically the qualities of “prudence, humanity, justice, generosity, and public spiritedness.”

AN ETHICAL AGENDA FOR THE ECONOMY

The simultaneous technological revolutions in very different fields such as biotechnology, genetics, molecular biology, computer science, communications, materials science, nanotechnology, robotics and many

more have greatly multiplied the capacity for producing goods and services, and made a great step forward in life expectancy possible. However, a large part of humankind is excluded from these advances on account of factors such as the “damaging disparities” mentioned above, while at the same time there are real “ethical scandals.”³ Thus, a little girl who is born in a poor country has a life expectancy of 45 years, whereas one that is born in a developed country now lives for more than 80 years. And in a world that could feed its entire population thanks to the accelerated technological progress, 1,020 million people, or one out of seven, go hungry.

An ethical agenda is needed for the economy in order to confront these morally inadmissible contradictions that destroy social cohesion

In the 21st century, 1,400 million people lack electricity. The 800 million people who live in Sub-Saharan Africa consume the same amount of electricity annually as do the 19 million who live in New York State. Climate change affects every human being, but its impact is extremely unequal. For every person who suffers from it in the rich countries, there are 80 who are subject to its effects in the developing world. Malnutrition is one of the main reasons why 8.1 million children die each year. With only 25 cents a day, it would be possible to supply the malnourished children with a cup containing all the necessary micro-nutrients. But 1.5 million dollars are spent on armaments every second.

An ethical agenda is needed for the economy in order to confront these morally inadmissible contradictions that destroy social cohesion. Some of the subjects synthesized must be included among its core concepts.

³ The author explores the subject in detail in his works. (Kliksberg 2010 and 2011a).

A new view of development

As the Sarkozy Commission (2009) chaired by Nobel Prize laureates Joseph Stiglitz and Amartya Sen pointed out, a broader view of development must be targeted. Economic growth is one of its objectives, but not the only one. Among other things, social inclusion, equity, access to culture, increased freedom, harmonious coexistence with nature and participation at all levels are required.

Pope John XXIII stated precursorily in his encyclical *Mater et Magistra* (1961) that,

It is in the nature of human beings that, when engaged in their productive activity, they need to be able to assume their own responsibilities and perfect themselves.

Very often there is a latent trade-off that is only made clear when development is not only measured in terms of gross domestic product, but with broader indicators such as those proposed by the commission and, previously, the UN's development paradigm.

Thus, the unbridled exploitation of nature can increase short-term growth, but it generates imbalances that will deprive millions of people of their historic habitat, as well as generate grave medium- and long-term economic harm.

The increased numbers of cars stimulate the economy but increase pollution as well as the number of hours spent in large cities, while the number of hours spent in large cities and in going to and coming from work takes time away from family and private life.

The new interest in living in a more harmonious way has spurred the emergence of many movements and the wish to learn from experiences,

such as visiting Bhutan, the only country in the world where the gross national happiness produced annually by society is systematically measured.

Social responsibility in public policies

It is hoped that the governments of democratic societies will guarantee the fundamental rights of citizens in decisive areas such as nutrition, health, education, the establishment and development of the family, and work. Already In 1989 the UN General Assembly sanctioned the right of all the world's citizens "to development," and made governments chiefly responsible for putting this into practice.

Ethical and socially-responsible conduct on the part of governments will require, together with a total eradication of corruption and clientelism, showing through action that rights such as access to health and education are really prioritized.

This must be reflected in budget allocations. Studies such as that of Bidani and Ravallion (1997) which examined 35 developing countries, found a strong correlation between public expenditure on health and life expectancy and the reduction of infantile mortality. Gupta, Verhoeven and Tiongson (1999) established that expenditure on primary care is associated with a reduction in the rates of infant mortality.

Musgrave (1996) summarized the conclusions of different similar studies while highlighting that,

"While none of the reasons for state intervention is solely applicable to the health sector, certain market failures are worse here than in other areas of the economy."

Jeffrey Sachs *et al.* (2002) showed that the improved nutrition in England and France during the 19th and 20th centuries was crucial to their increased productivity and per capita GNP.

A similar situation exists in education. Achieving higher school attendance by girls can drastically reduce infant mortality. Nevertheless, in several countries investment in health and education is extremely low. There is no real responsibility in public policy. Lack of resources could be alleged, but in many instances that is not the case. Thus the list of those which invest the least in public health is headed by an oil-producing country, Equatorial Guinea (only 2.1% of GDP instead of the minimum of 6% called for by the World Health Organization). In that country 9.1 children per 1,000 live births die; in Sweden and Norway it is three. Among those which also invest the least in health are oil-producing countries such as Kuwait (2.2%), Oman (2.4%), United Arab Emirates (2.7%), Saudi Arabia (3.4%) and Bahrain (3.7%).

Corporate social responsibility

Societal demand for social responsibility on the part of private enterprise grows daily. The pressure from small investors, who are rightly anxious after the severe harm inflicted on them by the irresponsibility of Wall Street and other episodes, is intensifying, as is that of responsible consumers, who increasingly tend to prefer the products of companies with a strong sense of corporate social responsibility, and also that of civil society in general.

Michael Porter and Mark Kramer (2011) wrote in a recent article in the *Harvard Business Review* that,

In the past few years companies have been considered to an increasingly large degree the cause of social, environmental and

economic problems. And a large proportion of the population believes that companies have prospered at the expense of the community.

They emphasize that, “The legitimacy of business has fallen to levels never before seen in history.”

They demand that more thought be given to corporate social responsibility, that it be practiced at a higher level and that “the economy and society should act in conjunction once again.” They float the idea that companies must generate “shared value.” Specifically they state, “The objective of corporations must be redefined as the creation of shared value, not just the generation of earnings [...] learning how to achieve this is our best opportunity for relegitimizing business.”

Corporate social responsibility today cannot be reduced to specific contributions. It must be part of all company policies. It must produce social value for the community in its different areas of activity.

As highlighted by ISO 26,000 which was drawn up by ninety-nine countries, it will not be prejudicial to them. On the contrary, numerous studies show that the companies with the most corporate social responsibility achieve greater productivity and competitiveness, are more favorably perceived by the financial community, are more highly ranked by consumers, and have greater chances of attracting people with talent.

Among the examples of creating shared value, WaterHealth International employs innovative techniques for water purification. It provides drinking water at minimum prices for a million people in India, Ghana and the Philippines. Waste Concern transforms 700 tons of rubbish per day from the poor quarters in Bangladesh into fertilizers.

A leading example is that of the social enterprises sponsored by Nobel Prize laureate Muhammad Yunus. The founder of the Poor People's Bank entered into an agreement with Danone, a leading international dairy-products company to provide an answer to infantile malnutrition. He challenged the company to produce a very cheap yoghurt that would include all the necessary micronutrients for a child. The Grameen-Danone company has already achieved some major successes. At the same time another agreement is being worked out with Adidas to produce very inexpensive shoes for the many barefooted children in the world. Walking barefoot can produce severe and irreversible health problems.

Demand is growing because the companies are fixing high ethical standards and are fully meeting them. *The Economist* magazine has affirmed that, "corporate social responsibility has won the battle of ideas" and will be "the only way to do business in the 21st century."

Many of the main multinational companies meeting at the UN Global Compact 2010 annual review signed the New York Declaration. Among its points were the following:

We commit ourselves to the UN Global Compact, and to the call to include the ten universal principles in the areas of human rights, labor, environment and anti-corruption in our strategies, operations and culture, and to act in support of the far-reaching goals of the United Nations, especially the Millennium Goals.

In this sense they stated in the declaration that:

The markets need effective regulations in order to manage themselves. Governments must lay down clear signals, especially in critical areas such as climate change. They must fix goals and incentives to reduce emissions of polluting gases,

strengthen climate resilience and support the production of clean energies [...] they must stimulate, while complementing regulation, the commitment by the private sector to voluntary initiatives.

The companies with the most corporate social responsibility achieve greater productivity and competitiveness, are more favorably perceived and have greater chances of attracting people with talent

The magnitude of the social call for greater corporate social responsibility appears in full force in the findings of the aforementioned Edelman Trust Barometer (2011). On asking those polled if “the Government should regulate the activities of corporations to ensure that companies conduct themselves responsibly,” the replies in favor predominated. They were: United Kingdom (82%), Canada (74%), Sweden (66%), China (62%), United States (61%), India (61%) and Brazil (53%).

Enhancing Volunteerism

The open ethical agenda includes deepening the commitment of civil society to eliminate “ethical scandals,” working in strategic alliances with public policies, and promoting corporate social responsibility.

The world of NGOs continues to expand and today, according to Johns Hopkins University statistics (Salomon, 2003), it now constitutes the eighth global economy in respect of gross product. According to the preliminary estimates for the State of the World’s Volunteerism Report for 2011 being prepared by the UN, there are now a billion volunteers.

They make the difference daily, offering direct solidarity with warmth, quality and commitment to millions of excluded families. That has led them to head the credibility tables in many countries. Apart from their direct effect, they are a school for moral preparation for action for young people, and are widely accepted among them. In many countries they work with little support from public authorities, and with very limited resources. They contribute directly to raising the ethical level of society by constituting a model of altruistic conduct in environments in which hedonism and lack of solidarity have powerful stimulants.

Our times need to make the economy and ethics compatible, in a concrete way. A work agenda for implementing this should include action items like those mentioned above. Society as a whole should demand and promote a renewal of the development paradigm that moves towards social responsibility in public policies, corporate social responsibility, the mobilization of share capital through the strengthening of volunteerism, and other features, such as the enhancement of social commitment in universities, support for the great task of organizations based on faith, and backing for social entrepreneurs.

THE CASE OF LATIN AMERICA

Latin America, with its 650 million inhabitants, is a continent where important questions, above all ethical, are being posed.

It is exceptionally endowed with natural resources. It has a third of all the clean water on the planet and quantities of cheap sources of energy; its subsoil contains some of the greatest global reserves of strategic raw materials, from oil to lithium; and it is one of the largest forest and biosphere reserves.

However, the big question is, “why, notwithstanding its natural advantages and its history without wars or major natural cataclysms, is a third of its population below the poverty threshold, why do 30 children out of 1,000 die before they are five years old, why do more than 20,000 mothers die annually during pregnancy or childbirth (90 for each 100,000 live births), and why is one out of every four young people not part of the education system or the labor market and in a state of severe social exclusion?”

The incidental factors are multiple and vary according to the history of each country, but most of the countries have a circumstance in common: enormous disparities. They have the worst Gini coefficient in respect of wealth distribution. The differences between the 10% richest and the 10% poorest people vary between 30 and 60, according to the country. In Norway it is 6.

The inequality is present not only with regard to income, but also to access to land, where the Gini coefficient is even worse, as well as to other factors. The World Bank (2004) states:

Latin America suffers from enormous inequalities. [...] moreover it is an invasive phenomenon that characterizes every aspect of life, such as access to health care, education and public services, access to land and other assets, financing from the formal credit and labor markets, and participation and political influence.

The great inequality generates poverty traps daily: the children of poor families suffer from serious health and malnutrition risks, they work and do not complete secondary school, and without that they remain outside the formal economy.

Birdsall and Londoño (1997) measured the relationship between inequality and poverty econometrically from 1970 to 1995. They found

that the large increases in inequality during this period were responsible for at least half of the large increase in the figures for poverty. In a study by ECLAC, UNDP and IPEA (2003) the conclusion was that, "In most of the countries examined it would be enough for the Gini coefficient to drop one or two points in order for the incidence of poverty to be reduced to the same extent as in several years of positive economic growth."

Poverty is, as Pope John Paul repeatedly pointed out (1998), a violation of fundamental human rights. In societies with as many advantages as those of Latin America, it is inadmissible that it should be of such major proportions.

Among other paradoxes, Latin America produces three times as much food as is needed for its population, but nevertheless 16% of the children suffer from chronic malnutrition and 53 million people are malnourished. Despite its enormous potential in clean water, 50 million people lack drinking water. Almost one out of every five Latin Americans lives in a shack, an extremely precarious form of housing.

Latin Americans increasingly resent the great ethical injustices: the poverty and inequality, as well as others, such as the relegation of indigenous and Afro-American populations, gender discrimination and the lack of attention for the disabled and old people.

In surveys such as the Latinobarómetro, 89% of the inhabitants of the region condemned the pronounced levels of inequality.

Over the past decade, civil society has substantially raised the levels of citizen participation. An increasingly dense social fabric of NGOs of all kinds, grass-roots organizations, women's movements and movements of young and indigenous people has developed.

A call for more active democracies and an ethical agenda on all levels has grown. Thirteen presidents were dismissed from office through democratic means between 1993 and 2007 before completing their terms, as a result of massive social rebellions by the people. The main causes were their non-fulfillment of their mandates to reduce poverty and inequality, open up opportunities and, in some cases, on account of corruption.

Poverty is, as Pope John Paul repeatedly pointed out (1998), a violation of fundamental human rights

Social demand in different countries has achieved significant changes in ethical terms. There is still a long way to go, but among the improvements on the ethical agenda are some that are summarized as follows:

The quality of public policies

There is much greater concern in public policy with regard to meeting the great open challenges. In countries such as Brazil, Argentina, Chile and Uruguay, among others, investment in social affairs has more than doubled. At the same time, credit lines have been opened and small and medium-sized companies have received strong support. Large-scale efforts have been made in policies aimed at integrating marginalized young people. There has also been relevant investment in infrastructure to promote living standards in depressed and rural areas.

Costa Rica, one of the few countries of the region where the major investment in health and education is a State policy independent of

governments, recently included an amendment in its constitution to the effect that the budget for education must never be less than 6% of GDP. Over the past 30 years the budget for health has also been 6%. Costa Rica has one of the lowest maternal and infantile mortality rates internationally, as well as long life expectancy.

The results of the new generation of public social policies are readily seen. Thus, among them, it is estimated that in Brazil during Lula's administration 30 million people rose out of poverty and joined the middle class.

In Uruguay poverty has been drastically reduced in recent years, major health reform has increased access to health care in large sectors of the population, and the Ceibal Plan has democratized access to Internet, giving coverage to the 300,000 primary school students.

In Argentina the Universal Allowance per Child for children of parents without regular jobs protects 3,700,000 poor children on condition that their families show that they are attending school and being vaccinated. The country's economy has grown 7.8% annually over the past eight years, and 5 million jobs have been created, reducing unemployment from 23 to 7.3% at the end of 2000.

International economic conditions such as higher prices for commodities and increased Chinese demand helped these countries, but these opportunities were also managed advantageously in an effort to reduce poverty and inequality

Forming part of this was the growth of alliances between the state, private companies and civil society to confront key social problems and improve the level of education.

In all these countries and others of the region, the transparency of the state and the rendering of accounts have improved, and the management–control mechanisms have been strengthened.⁴

Much more progress needs to be made, and the people continue to exert pressure more actively for ethically-consistent policies.

The demand for corporate social responsibility

Latin-American public opinion is making the requirement for corporate social responsibility part of the collective agenda. The NGOs concerned with corporate social responsibility are on the rise, and coverage in the mass media, audits and attention in the public sphere are increasing, as are consumers who prefer products from the companies who practice it.

Progress is being made towards an advanced view of corporate social responsibility. The expectation is that, based on it, companies will—among other things—treat their staff well, offer consumers good-quality products at reasonable prices, take care of the environment, practice good corporate governance, and become actively involved in problems that are critical for society, starting with those in their geographical vicinity.

A broad view of the situation shows different attitudes regarding these improvements in corporate social responsibility in the business world, which are vital and strategic for the development of countries.

⁴ See the articles by Rómulo Paes de Souza “Enseñanzas de Bolsa Familia” and Juan Manuel Abal Medina “La asignación universal por hijo en Argentina” in Kliksberg (2011b), as well as in Subrandt and Lefioa (2010).

There is still a large number of companies that has not responded to the international call for a new role for business. They remain anchored in traditional conducts of isolation and short-term maximization.

But there is a sector that is growing dynamically and very hopefully, and which has become part of entrepreneurial philanthropy. Its contributions to causes of public interest are on the rise, even though they continue to be proportionally much lower than those that are common in the developed world.

Some companies are taking, or have already taken, the step from philanthropy to a broad view of corporate social responsibility that includes the above-mentioned issues and amounts to incorporating it into their corporate policies and allocating steady resources to it.

In Brazil the systematic educational action by the Ethos Institute, which was founded by entrepreneurs themselves, together with other efforts, is producing concrete progress. In an investigation conducted by Ethos in 2004, it was found in a sampling of 55 firms analyzed that the number of those practicing CSR was 11. By 2008 it had doubled to 22.

Several companies in Argentina, Brazil, Chile and Mexico are incorporating social balance sheets. Natura, a Brazilian multinational and a world leader in corporate social responsibility, produced a social balance sheet in 2010 that rendered accounts for its actions on behalf of the community and the environment, which was drawn up in collaboration with other groups with shared interests.

In Argentina, young entrepreneurs from Rosario founded a movement in Mendoza Valos in favor of corporate social responsibility, which was called Moverse. They also founded similar movements in other towns, thereby setting up a National Federation of corporate social responsibility.

There are developments along the same lines in other countries. For example, in Panama COSPAE is working actively; it is a council that brings together all the chambers of commerce with the aim of supporting education; in Guatemala a group of young entrepreneurs generated Centrarse, and linked their action to the Millennium Goals, while there are very varied developments in countries such as Chile, Mexico and others.

The examples of multinational companies with a strong presence in Latin America, such as BBVA with its major investment in education, Telefonica of Spain with its very successful Proniño program and Banco Santander with its support for education in corporate social responsibility, have contributed significantly to these countries and to the future of corporate social responsibility.

Corporate social responsibility does not fall like manna from heaven. In order to ensure that the region makes progress it is essential to educate future generations of entrepreneurs. For this purpose the author, with the support of the UNDP, Buenos Aires University and other important universities, founded the Ibero-American University Network for Integrating CSR (Red Unirse). Two-hundred and thirty universities from twenty-one countries⁵ have joined. The Network works towards the solid incorporation into the curriculum of teaching and research in corporate social responsibility. A training program for two-hundred young people in economic ethics and corporate social responsibility was also generated. It is called “100 outstanding young people for development with ethics,”⁶ and is being taught in thirty universities in Argentina, Peru and Uruguay and

⁵ More detailed information can be found on the web page of Red Unirse: www.redunirse.org

⁶ Detailed information can be seen on the program “100 youths for an ethical development” in *Clarín* (September 28th, 2008). “They will train young university students committed to the public interest,” and in *La Nación* (December 13th, 2009), “Económicas de la UBA forma líderes con compromiso social.” (The Economics Department of Buenos Aires University trains leaders with social commitment.)

is also being disseminated in Mexico, Brazil, Guatemala and Panama, among others,

However, progress is slow compared with what is needed. There is a long way to go in this key ethical matter.

Civil society on the go

The call to ethics in action is being taken up very vigorously by Latin American civil society. The examples of exemplary organizations are multiplying in the region. Many of them have the support of public policy and private companies and constitute true agents of pro-solidarity change.

Among many others, Caritas Argentina, with its 150,000 volunteers, directly helped three million people during the great 2002 crisis; AMIA, the central body of the Jewish community in this country, set up the main employment bureau; Fe y Alegría, which was founded in Venezuela, took its task of education to sixteen countries; Faça Parte de Brasil succeeded in getting volunteerism taught in a great number of schools. A Chilean NGO, Un techo para Chile with a leader and membership of young people, which builds housing for families in extreme poverty, has just been awarded the Premio de Derechos Humanos Rey de España (King of Spain Human Rights Prize). It now has a presence in 19 countries of the region and has built 80,000 housing units; 400,000 young volunteers participate in the work.⁷

The deepening of ethical commitment in public policies, in private enterprise and in civil society is essential in order for the great challenges

⁷ More details can be found in: <http://www.untechoparamipais.org>.

of the right to health, education, a decent job, basic services and inclusion to be met as early as possible in the region.

A GENERAL CONCLUSION

In the first part of this article the demand for more ethics in the world economy was analyzed, in the second part, the importance of the ethical lacunae in the current grave financial crisis was stated, in the third the outlines for an ethical agenda were laid down, and in the fourth the situation in Latin America was examined from an ethical point of view.

During recent decades there has been a considerable gap between the thought predominant in the economy and that in ethics. The message implicit in conventional economic thought was that the economy could be resolved technically, whereas ethics was a topic for other areas, such as religion or philosophy.

That was not how its founding fathers conceived the economy. Adam Smith, David Ricardo, John Stuart Mill and others saw it as a moral discipline and were intensely concerned about the ethical implications of economic policies and the actions of economic agents.

Following the opposite course “has seriously impoverished the economy,” wrote Nobel Prize laureate Amartya Sen. Ethical weaknesses have been very influential in the current difficult problems of the global economy.⁸

On the other hand, more successful and sustainable economies, which head tables such as the UN Human Development Index, have been based on the rigorous practice of ethical principles in public and private areas.

⁸ Different dimensions of the topic are discussed in Sen and Kliksberg (2011).

Sennett (2011), Professor Emeritus at the London School of Economics, wrote, “Norway and Sweden have coordinated efforts to include young people in jobs for beginners, and have a youth unemployment rate of about 8%.” This, as he points out, contrasts markedly with the 22% of youth unemployment in Great Britain and the United States.

It is time to address once more the interrelationship between ethics and the economy. The economy must function with the greatest possible efficiency, but it is just a means, as laid down by the greatest spiritual wisdoms of humankind, to enable the basic ethical goals to be fulfilled.

Among them are that mothers can give birth safely and that children can be born and develop in good health, that the family, the pillar of society, can prosper, that young people can have access to education and work, that gender discrimination and discrimination of all types can be overcome, that the disabled can be protected, and that older people can lead a full life.

At the same time, every actor in the economy must assume his/her ethical responsibilities, and his/her practices must be compatible with them. Too much time has been lost discussing how ethics can be incorporated into the economy, and relegating them to a marginal place. Addressing this connection fully once again will be decisive in confronting the dire situation described in the *Caritas in veritate encyclical* (2009):

The technical forces that move, the planetary interrelations, the pernicious effects on the real economy of a badly-used, and to a large extent speculative, financial activity, the tremendous, and frequently-provoked migratory flows, which are then not properly managed, and the unregulated exploitation of the earth’s resources, induce us nowadays to reflect on the measures necessary to solve problems that not only are new [...] but also and above all have a decisive effect on the present and the future of humanity.

BIBLIOGRAPHY

- World Bank. 2004. *Inequality in Latin America and the Caribbean*. Washington, DC.
- Benedict XVI. 2009. *Caritas in veritate*. www.catholics.net
- Bidani, Benu, and Martin Ravallion. 1997. "Decomposing social indicators using distributional data." *Journal of Econometrics* 77.
- Birdsall, Nancy, and Juan Luis Londoño. 1997. "Assets' inequality matters." *American Economic Review*, May.
- Buffett, Warren. 2011. "Stop Coddling the Super-Rich." *New York Times*, August 14th.
- Canales, Rodrigo, B. Cade Massey and Amy Wrzesniewski. 2010. "Promises Aren't Enough: Business Schools Need to Do a Better Job Teaching Students Values." *The Wall Street Journal*, August 23rd.
- De Schutter, Olivier. 2011. "El hambre es un problema político." *El País*, March 17th.
- Edelman Trust Barometer. 2011. *Annual Global Opinion Leaders Study*.
- Etzioni, Amitai. 2002. "When it comes to ethics, B-Schools get an F." *The Washington Post*, August 4th.
- Gentile, Mary. 2010. "Ethics teaching asks the wrong questions." *Financial Times*, September 13th.
- Gupta, S, M. Verhoeven and E. Tionson. 1999. "Does higher government spending buy better results in education and health care?" Working paper 99/21. Washington DC: International Monetary Fund.
- Gurría, Ángel. 2009. "Business Ethics and OECD principles; what can be done to avoid another crisis?" European Business Ethics Forum.
- Juan XXIII. 1961. *Mater et Magistra*.
<http://www.es.catholic.net/biblioteca/libro.phtml?consecutivo=171&capitulo=2424>.
- Kirkpatrick, Grant. 2009. "The corporate governance lessons from the financial crisis." OECD Steering Group on Corporate Governance.
- Kliksberg, Bernardo. 2010. *Más ética, más desarrollo*. Buenos Aires: Temas, 19th edition.
- Kliksberg, Bernardo. 2011a. *Escándalos éticos*. Buenos Aires: Temas, 6th edition.
- Kliksberg, Bernardo (comp.). 2011b. *Latin America frente a la crisis*. Buenos Aires: Random House Mondadori, Sudamericana, UNDP.
- Lauerman, John. 2010. "Harvard business names leadership, ethics expert Nohria as Dean." *Bloomberg*, May 4th.
- Musgrave, Philip. 1996. "Public and private roles in health." World Bank. Discussion paper 339.
- Porter, Michael E. and Mark R. Kramer. 2011. "Creating sharing value." *Harvard Business Review*, January-February.
- Sachs, Jeffrey, et al. 2002. *Macroeconomics and Health*. Geneva, World Health Organization.
- Salomon, Lester, M. S. Wojciech Sokolowski y Regina List. 2003. "Global civil society: an overview." Johns Hopkins comparative nonprofit sector project.
- Sen, Amartya, and Bernardo Kliksberg. 2011. *The People First*. Planeta, Deusto, 14th edition.
- Sennet, Richard. 2011. "Desempleo." *Eco?Clarín*, 15 de septiembre.
- Smith, Adam. 1759. *The Theory of Moral Sentiments*. Cambridge: Cambridge University Press.

- Sulbrandt, José, and Álvaro Lefioa. 2010. "La experiencia de Costa Rica en la reducción de las tasas de mortalidad infantil y mortalidad materna." In: *Experiencias sociales ejemplares*, Spain-UNDP Fund Hacia un desarrollo integrado e inclusivo en Latin America, UNDP-Spanish Agency for International Cooperation and Development (AECID).
- The Economist*. 2011. "The rich and the rest." January 22nd.
- The Economist*. 2010. "Social entrepreneurship." August 12th
- The Week*. 2008. "Greenspan: the Oracle's mea culpa." November 7th.
- Wilkinson, Richard G., and Kate Pickett. 2010. *The Spirit Level: Why Equality is Better for Everyone*.
London: Penguin Books.

>> The global economy is immersed in the worst crisis since 1929. Among its causes are “ethical lacunae.” Factors such as failings in corporate governance, speculative tendencies, the deficient training of managers in ethics and a reductionist view of the economy have had severe consequences. There is now a “thirst for ethics.” It is essential to recover the relationship between ethics and the economy.

>> Alignments are proposed for an ethical agenda for the economy that confronts the ethical scandals of large-scale poverty and the marked inequalities in a world where technological revolutions have multiplied productive capacity. The agenda includes a new view of development, social responsibility in public policies, corporate social responsibility, the strengthening of volunteerism and the work of social entrepreneurs.

>> The case of Latin America is also analyzed. This is a region of enormous potential but also of demanding open ethical challenges.

BERNARDO KLIKSBERG

PNUD/UNO

ECOLOGY AND ENVIRONMENTAL ETHICS

Kristin Shrader-Frechette

Arthur Cooper, former president of the Ecological Society of America, correctly noted that a lot of environmental ethics and policy directly relies on ecological science (Cooper 1982, 348; Shrader-Frechette and McCoy 1993, 2; Hanssen, Rouwette and van Katwijk 2009). In fact, to illustrate this point, one need think only of cases such as banning DDT, limiting acid rain, managing coastal zones and forests, and protecting endangered species. In all these environmental policies, ecological science has played a pivotal role.

MISGUIDED APPEALS TO ECOLOGICAL LAWS AMONG ENVIRONMENTAL ETHICISTS

Environmental ethicists often make erroneous appeals to ecological science, however, when they attempt to justify their specific ethics and policy conclusions. For instance, Baird Callicott (1989, 22), Aldo Leopold (1949, 224–225) Holmes Rolston (1988), Stanley Salthe (2005), Paul Taylor (1986, 50), and others subscribe to variants of the balance-of-nature thesis. Rolston (1988, 231) claims “the paramount law in ecological theory” is “homeostasis,” and he ties environmental ethics to maintaining ecological balance or stability, to actions that “maximize ecosystemic

excellences.” Baird Callicott (1989, 31) says something similar, that the “organic whole” of the biosphere has rights to moral considerability based on “ecological entitlement.” Salthe (2005, 1) speaks of the natural biological world as comprising “nested homeostatic space-time systems.” De La Plante and Odenbaugh (forthcoming, 2) claim “the theoretical ecology literature” supports “a ‘balance of nature’ and that ecosystems exhibit self-organizing behaviors that are directed toward increasing complexity and stability.” Although Odenbaugh (2005, 250) admits that concepts of stability and balance are vague, he maintains that “ecological stability” provides a “conceptual framework for ecologists to study communities in the field and the lab.”

However, the biggest problem with environmental ethicists such as De La Plante, Odenbaugh, and Rolston—all of whom appeal to some sort of ecological homeostasis or balance of nature—is that there is no clear, confirmed sense in which natural ecosystems proceed toward homeostasis, stability, or balance. As a result, ecologists have rejected the diversity-stability view held by MacArthur, Hutchinson, and others. Indeed, there are dozens of empirically-based counterexamples to various ecological-stability claims, e.g., Paine and Levin (1981), May (1973), Levins (1974, 123–138), Connell (1978, 1302–1310), and others (e.g. Sagoff 1985, 107–110) have challenged them on both mathematical and field-based grounds. The result? Given that natural ecosystems do not proceed toward homeostasis, stability, or balance, the only uncontroversial basis for condemning actions such as species destruction are case-specific and precautionary—thus anthropocentric (e.g., the wrongness of wanton destruction or carelessness), as we shall argue later. The reason? There are no clear, confirmed universal theories of ecological “balance” that can be used to condemn environmental “damages.” Thus, one can support an environmental ethics, but not on the basis of some predictive, general, ecological theory—some “hard ecology.” The situation in ecology is thus a bit like that in medical science, in which one also might try to define

criteria for what is “balanced” or “healthy.” Ecology is unlike medical science, however, because medicine’s goal is always the welfare of the individual patient, whereas the goal of ecology is the welfare of some whole or system—a far more difficult goal to specify because one cannot precisely define the whole that is being “balanced.” Is it species, several species, communities, populations, an ecosystem, selected ecosystems, or the biosphere? All of these entities are also continually changing—making them not amenable to precise specification—or what I call “hard ecology,” in large part because the natural-selection foundations of ecology undercut any uncontroversial notion of ecosystem holism, equilibrium, balance of nature, or species (Shrader-Frechette and McCoy 1992; Sober 2006; Calsbeek et al. 2009).

Moreover, because ecology is more empirically and theoretically underdetermined than many other sciences, it cannot provide clear, precise directives for environmental ethics. In island biogeography, for example, there are many areas of under-determination that require one to make choices among different methodological value judgments. These choices concern how to interpret data, how to practice good science, and how to apply theory in given situations, such as determining the best design for nature reserves. Such choices are evaluative because they are never wholly determined by the data. In the nature-reserve case, as already mentioned, ecologists must decide whether ethical and conservation priorities require protecting an individual species, an ecosystem, or biodiversity, when not all can be protected at once. Different design choices are usually required to protect a particular species of interest, as opposed to preserving a specific ecosystem or biotic diversity. Also, ecologists often must choose between maximizing present and future biodiversity. Currently, they are able to determine only which types of reserves, for example, contain the most species at present, not which ones will contain the most over the long term. Besides, in the absence of adequate empirical data on particular taxa and their specific

autecology, ecologists must frequently decide how to evaluate the worth of general ecological theory in dictating a preferred reserve design for a particular case. They are also often forced to assess subjectively the value of different reserve shapes. Besides, reserve shape, as such, may not explain variation in species number (e.g., Hansen and DeFries 2007, Simberloff and Cox 1987; Williamson 1987; Boecklen and Simberloff 1987; Blouin and Conner 1985).

Ecologists likewise must frequently rely on subjective estimates and methodological value judgments whenever the “minimum viable population” size is not known in a precise area (Boecklen and Simberloff 1987). One of the most fundamental sources of value judgments in ecology is the fact that the island-biogeographical theory underlying current paradigms regarding reserve design has rarely been tested and is dependent primarily on correlations rather than causal explanations, on assumptions about homogeneous habitats, and on unsubstantiated turnover rates and extinction rates. Hence, whenever ecologists apply this theory, they must make a variety of methodological—and sometimes ethical—value judgments. Some of these value judgments concern the importance of factors other than those dominant in island biogeography (for example, maximum breeding habitat), factors that have often been shown to be superior predictors of species number. Making value judgments regarding reserve design is also difficult because corridors (an essential part of island biogeographic theory) have questionable overall value for species preservation. Recommending use of corridors thus requires ecologists to evaluate subjectively their effectiveness in particular situations. Also, owing to the large variance about species-area relationships, those who use island biogeographical theory are often forced to make subjective evaluations of non-testable predictions. Some of these subjective evaluations arise because islands are disanalogous in important ways with nature reserves. As a result, ecologists who apply data about islands to problems of reserve design must make a number of

value judgments about the representativeness and importance of their particular data (e.g., Stouffer et al. 2011; Ale and Howe 2010; Shrader-Frechette 1995; Shrader-Frechette and McCoy 1993; Boecklen and Simberloff 1987).

Because of the empirical and theoretical underdetermination exhibited by ecological theories like island biogeography, and because of the resultant methodological value judgments necessary to interpret and apply it in specific cases, ecology does not appear to be “hard” enough or solid enough to be fully amenable to providing uncontroversial support for environmental ethics and policy. Ecology’s value judgments break the deductive connections of scientific theory. Of course, there are rough generalizations and case studies that can aid problem-solving in specific ecological situations, as a prominent United States National Academy of Sciences report recognized (Orians et al. 1986). This report remains the classic, latest source of information on ecological method. However, rough ecological generalizations and ecological case studies provide no uncontroversial support for environmental ethics, precisely because they can be challenged on grounds of subjective judgments, lack of general theory, and inability to replicate the findings (Shrader-Frechette 1995; Shrader-Frechette and McCoy 1994).

A second reason—in addition to the underdetermined, value-laden theory—why precise, universal, hypothetico-deductive laws are unlikely in ecology, is that fundamental ecological terms (like ‘community’ and ‘stability’) are imprecise and vague. As a result, they are unable to support precise empirical laws, although there are many useful ecological models (e.g., Clark and Mangel 2000). Likewise, though the term ‘species’ has a commonly accepted meaning, and though evolutionary theory gives a precise technical sense to the term, there is no general agreement in biology on an explicit definition of ‘species’. There is consensus neither on what counts as causally sufficient or necessary conditions for a set of

organisms to be a species, nor on whether species are individuals. Phenetic taxonomy has failed to generate a workable taxonomy, perhaps because species are not natural kinds and because facts cannot be carved up and rearranged in accordance with the hopes of numerical taxonomists (e.g., Stamos 2003).

Ecology, more empirically and theoretically underdetermined than many other sciences, cannot provide clear, precise directives for environmental ethics

Simple, general, precise, hypothetico-deductive laws are also unlikely in ecology because of the uniqueness of ecological phenomena. If an event is unique, it is typically difficult to specify the relevant initial conditions for it and to know what counts as relevant behavior. One must often have extensive historical information in order to do so. Hence, from an empirical point of view, complexity and uniqueness hamper the elaboration of a simple, general set of hypothetico-deductive laws to explain most or all ecological phenomena.

At the other extreme from “hard ecology,” proposed “soft ecology” likewise fails to provide adequate scientific foundations for environmental ethics because concepts like “integrity” are qualitative, unclear, and vague. These “soft ecology” terms underestimate the ecological uncertainty associated with such fuzzy terms. Arne Naess (1973) recognized this point when he claimed that the normative foundations provided by ecology are merely “basic intuitions.” The problem with intuitions is not only that they are vague and qualitative but also that one either has them or does not. They are not the sort of things amenable even to intelligent debate, much less to scientific confirmation or falsification. Hence, intuitions ask too little of ecology; their uncertainty

causes us to come up short when ecologists need to defend their conclusions in an environmental courtroom.

To illustrate the difficulties with this intuitive “soft ecology,” consider some of the problems associated both with the scientific foundations of the concept of ecosystemic integrity and with its philosophical applications. Much of the scientific and ethical interest in integrity arose as a result of the famous environmental precept of Aldo Leopold (1949, 224–35): “A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.” Numerous environmental ethicists have done analyses of the concept of ecosystem integrity (e.g. Odenbaugh 2005; De La Plante 2004; Noss, Westra, and Pimentel 2000; Callicott 1982; Rolston 1975), and De La Plante and Odenbaugh (forthcoming, 2), for instance, claim “that ecosystem theory legitimizes such notions as ‘ecosystem health’ and ‘ecosystem integrity.’” Unfortunately, however, these studies rely on problematic science or soft ecology—that is unable to adequately support environmental ethics. What are the problems?

Leading experts on ecosystem integrity, such as Henry Regier and James Kay (Regier 1992; Waltner-Toews and Kay 2002; Kay and Regier 2000) admitted that the term has been explicated in a variety of ways: to refer to open-system thermodynamics, to networks, to Bertalanffian general systems, to trophic systems, to hierarchical organizations, to harmonic communities, and so on. Obviously, a clear, operational scientific concept cannot be explicable in a multiplicity of ways, some of which are mutually incompatible, if one expects the concept to do explanatory and predictive duty for field ecologists and therefore philosophical and political duty for attorneys, policy-makers, and citizens involved in environmental controversies.

A second problem with ecological-integrity concepts is that when people attempt to define “integrity” precisely, often the best they can do is

specify necessary conditions, such as the presence of “indicator species” for ecosystem integrity. For example, the 1987 Protocol to the 1978 Great Lakes Water Quality Agreement formally specified lake trout as an indicator of a desired state of oligotrophy (Regier 1992). One difficulty—with using such species to indicate environmental integrity—is in part that tracking the presence or absence of an indicator species is imprecise and inadequately quantitative. A better idea might be to track the change in species number or taxonomic composition. Another recognized problem is that the presence or absence of an indicator species alone presumably is not sufficient to characterize everything that might be meant by “integrity;” otherwise, people would not speak of “ecosystem integrity” but merely of “ecosystem presence of lake trout.” Hence, though the meaning of “integrity” is not clear, defining the term via several indicator species appears both crude and inadequately attentive to the underlying processes likely contributing to the presence or absence of certain species and to the larger processes presumably possessing integrity (e.g., Farr 2002; Shrader-Frechette 1995).

The objections here are not to philosophical or ethical concepts of integrity or balance—which obviously may have heuristic and political power. Rather, the argument is that philosophers and soft ecologists do not call a spade a spade. They do not call soft science “soft” when it is soft, and they appear not to realize that ecology cannot meet the demands of “hard” science. They also appear not to realize that soft science, in the absence of an environmental political consensus, is unlikely to be robust enough to support precise environmental ethics and policy decisions. When a consensus supports particular environmental values, then soft ecology is obviously valuable and heuristically useful, despite the absence of “hard ecology.” But situations of consensus regarding environmental values are not those in which we most need ecology. For all these reasons, ecological theory is not an adequate basis for environmental policy-making. At best, it provides necessary, but not

sufficient, scientific grounds for environmental ethics and policy. Insofar as it is uncertain and requires us to fill in our knowledge gaps with subjective judgments, it leads to incomplete hard ecology or question-begging soft ecology—neither of which can adequately support environmental ethics and policy.

Ecological theory provides necessary, but not sufficient, scientific grounds for environmental ethics and policy

SIMPLISTIC APPEALS TO BIOCENTRISM AND INTRINSIC VALUE
IN ENVIRONMENTAL ETHICS

If ecological theory cannot provide a complete, uncontroversial basis for environmental ethics, what other resources can philosophers and ethicists provide? Are these philosophical resources adequate? This portion of the chapter attempts to answer both questions.

In the early 1970s, environmental ethics began by challenging traditional human-centered, or anthropocentric, ethics and the supposed moral superiority of humans to other beings (e.g., Stone 1974). As subsequent paragraphs reveal, many environmental ethicists argued that, instead of individual humans, the key subjects of value are ecological wholes, such as ecosystems; other environmental ethicists argued that the main subjects of value are natural things, from roaches to rocks, all of which have intrinsic value or value in themselves, apart from human considerations—or non-instrumental value, value as more than mere means to human ends.

A few environmental ethicists, however, relied on traditional ethics to challenge environmental abuses, arguing that factors such as greed and

consumerism harm both humans and the natural environment (e.g., Passmore 1974; Shrader-Frechette 1981; Norton 1991; de Shalit 1994; Light and Katz 1996). Many of these more traditional or more pragmatic environmental ethicists are anthropocentrists only in the weak sense because they believe that beings, other than humans, also have intrinsic value. (Anthropocentrists in the strong sense believe that only humans have intrinsic or non-instrumental value—value in themselves, independent of their utility to others.) Most philosophers believe that if a being has intrinsic value, then others have *prima facie* duties to protect it or refrain from harming it (O’Neil 1992; Jamieson 2002). Consequently, it is crucial to know whether only humans have intrinsic value. Aristotle (1948, Bk. 1, Ch. 8), for instance, is a strong anthropocentrist who claims that “nature has made all things specifically for the sake of man” and that the value of nonhuman things in nature is merely instrumental. Thomas Aquinas (1975, Bk. 3, Pt. 2, Ch. 112) likewise claims that nonhuman animals are “ordered to man’s use.” Weak anthropocentrists, however, believe that humans have greater intrinsic value than other beings, or that in cases of conflicts, human well-being often outweighs that of other beings. Immanuel Kant (1963) explains that humans (or what we here call “strong anthropocentrism”) need not ignore non-humans, however, because cruelty to other animals is wrong insofar as it might encourage people to become desensitized to cruelty towards humans.

Many environmental ethicists—who affirm the intrinsic value of all beings—also subscribe to “biocentrism.” That is, they claim that the welfare of the biosphere, rather than that of humans alone, is the key to environmental ethics. Yet each environmental ethicist defines “biocentrism” in slightly different ways. Aldo Leopold (1949, 224–225), for instance, maintained that an action is right when it tends to preserve the integrity, stability, and beauty of the biotic community, but he offered no ethical theory to justify his position. Building on Leopold, Richard Routley (1973; Routley and Routley 1980) argued that typical Western

anthropocentric ethics amount to “human chauvinism,” blind “loyalty” or prejudice, and thus discriminates against those outside the privileged human class. Baird Callicott (1989) argues for a *holism* based on Leopold’s view that “A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community ...,” and Callicott takes this as the supreme deontological principle for ethics. For Callicott, only the earth’s biotic community has intrinsic value, and the value of individual members is merely instrumental to their contribution to the “integrity, stability, and beauty” of the larger biotic community. Biocentrist Paul Taylor (1986, 1981; see Agar 2001), however, defends a more individualistic version of biocentrism and the intrinsic value of nature. He argues that each living thing in nature is a “teleological-center-of-life” that has a well-being of its own and that all beings who are teleological-centers-of life have equal intrinsic value (what he calls “inherent worth”). As a result, Taylor says they deserve moral respect. For example, he says this “inherent worth” means therefore that humans have a *prima facie* duty (a duty accepted until there are compelling reasons to the contrary) to promote the biological good—or inherent worth or intrinsic value—of these beings, as ends in themselves. Agreeing, De La Plant and Odenbaugh (2005, 2) claim that “the theoretical ecology literature” justifies such “holistic conceptions of nature.”

However, despite their differences, environmental ethicists’ appeals to biocentrism and the equal intrinsic value of nature have at least four major problems. *First*, as already argued in section one, and contrary to ethicists such as Callicott, De La Plante and Odenbaugh, ecological theory does not clearly justify any notion of biocentrism or the inherent worth of nature. A *second* problem with biocentric theory is that, contrary to Taylor, Callicott, and most other biocentrists, “biological good” is merely descriptive, not prescriptive (see Williams 1992 and O’Neill 1993, Ch. 2). Consequently, there are no obvious moral grounds for realizing that good. A *third* problem is that, if Callicott and others are correct, then any

individual member of the biotic community could be sacrificed in order to protect the supposed integrity, beauty, or stability of the biotic community. In short, Callicott's early views, and other biocentric views can lead to "environmental fascism," sacrificing humans for the sake of some supposed reason of environmental welfare (Regan 1983, 362; Shrader-Frechette 1996)—a fact that led Callicott to affirm the intrinsic value of all individuals in the biotic community, as well as that of the community itself. While this response of Callicott avoids the charges of "environmental fascism," it leads Callicott into the fourth problem, outlined below. Warwick Fox (2007), however, continues to give top moral priority to ecosystems and the biophysical world, a fact that makes him vulnerable to the charge of environmental fascism.

One of the most basic difficulties with all biocentric environmental ethics—at least those that claim all beings have equal intrinsic value—a *fourth* problem, is operational. The operational problem is that these ethics are incomplete because they provide no second-order or *ultima facie* criteria (criteria, all things considered) to adjudicate among the different interests of different beings. Which and whose interests should be primary in cases of conflicts in biocentric ethics? In conflicts among humans, humans are assumed to be equal, but considerations of merit, blame, negligence, compensation, and so on help ethicists and policy-makers decide whose interests ought to be accorded primacy in a given situation. In conflicts among humans, animals, and plants, however, there are no obvious, uncontroversial second-order principles because principles of merit, blame, negligence, compensation, and so on, apply only to beings with free will, who are capable of being moral agents. Bees cannot be "blamed" for stinging people, although people can be. Virtually all philosophers thus recognize that, because there are no easy, exception-free definitions of such *ultima facie* claims to have one's interests protected, such protection must rely merely on *prima facie* claims—the very claims to which most environmental ethicists appeal.

However, such *prima facie* claims are not operationalizable unless one knows when they translate into *ultima facie* claims. For the reasons just given, one does not know these things, and biocentrism and “equal interests” fail to provide an adequate foundation for environmental ethics.

Many environmental ethicists also subscribe to “biocentrism.” That is, they claim that the welfare of the biosphere, rather than that of humans alone

A *fifth* major problem with environmental ethicists’ biocentrism is that it is both empirically unfounded and can lead to elitism and insensitivity to human needs, as when Garrett Hardin or Holmes Rolston (1996) claim that some humans are cancers on the planet, especially in developing nations where the need to feed people often results in environmental destruction. Yet poor people are often excellent environmental managers who do less environmental damage than most Westerners. Indeed, Westerners seem mainly responsible for the environmental crisis (Martinez-Alier 2002; Attfield 1998; Brennan 1998a; Guha 1989; Shrader-Frechette 1981).

THREE SOLUTIONS

Given all the problems with ethicists’ misguided appeals to ecological laws, to biocentrism, and to equal interests, what are possible solutions? At least three come to mind: 1. ethical default rules to use in situations of ecological uncertainty, 2. scientific-case-study environmental ethics, and 3. recognizing human rights against life-threatening pollution.

Because there is so much obvious uncertainty in ecological science, one solution for environmental ethicists and policy-makers is to adopt an

ethical-default rule. As a default principle for dealing with uncertainty, European Union law and many medical and citizens' groups, including the American Public Health Association (APHA), advise adopting the "Precautionary Principle." APHA formulates the principle as the claim that situations characterized by potentially life-threatening uncertainty should be assumed harmful until proved safe. According to this principle, one should try to prevent potentially serious environmental and public-health harm, even before all the details are known about them. The rationale is that, if one waits for potentially serious harm to become obvious or widespread before doing anything about it, it often is too late to stop the harm. As a result, AHPA recommends treating all chemicals as dangerous until they are proved otherwise. Following this principle not only protects humans and the environment against potentially serious threats but also provides an incentive for reducing future uncertainty. If polluters know that, in the absence of reliable data about their pollutants and products, government will follow the Precautionary Principle, they will be less likely to prolong uncertainty or discourage doing the requisite scientific studies.

Three solutions come to mind: 1. ethical default rules to use in situations of ecological uncertainty, 2. scientific-case-study environmental ethics, and 3. recognizing human rights against life-threatening pollution

A related precautionary procedure is to minimize type II, rather than type I, statistical errors under conditions of uncertainty when both errors cannot be avoided. Contrary to current scientific norms, this default procedure places the burden of proof not on anyone who posits an effect, but on anyone who argues that there will be no damaging effect from a particular environmental action. One can defend this rule, despite its reversal of the norms of statistical practice, on straightforward grounds of

protecting human welfare. After all, humans take precautions such as getting medical check-ups, buying insurance and carrying umbrellas just in case it rains. Humans do not wait for harm to threaten them before they take action to prevent it, and the same reasoning applies to justify all default principles in environmental ethics (Shrader-Frechette 2007, ch. 6, 1993; Fisher, Jones, and Schomberg 2006; Ricci et al. 2003).

A second means of improving environmental ethics and policy would be to base it on the “practical ecology” of case studies, even though case studies do not rely on general theory. Case studies are grounded on rules of thumb (like the norm regarding types I and II statistical error), on rough generalizations, and on detailed investigations of individual organisms. A classic National Academy of Sciences (NAS) committee illustrated how case-specific, empirical, ecological knowledge, rather than an uncertain general ecological theory or model, might be used in environmental problem-solving (Orians et al. 1986). According to the NAS committee, ecology’s greatest predictive successes occur in cases that involve only one or two species, perhaps because ecological generalizations are most fully developed for relatively simple systems. This is why, for example, ecological management of game and fish populations through regulation of hunting and fishing can often be successful. Applying this insight to this discussion, ecology might be most helpful in undergirding environmental ethics and policy-making when it does not try to predict complex interactions among many species, but instead attempts only to predict what will happen for only one or two taxa in a particular case. Predictions for one or two taxa are often successful because, despite the problems with general ecological theory, there are numerous lower-level theories in ecology that provide reliable predictions. Application of lower-level theory about the evolution of cooperative breeding, for example, has provided many successes in managing red-cockaded woodpeckers. In this case, successful management and predictions appear to have come from specific information, such as data about the presence of cavities in trees

that serve as habitat. Examples like that of the woodpecker suggest that, if the case studies used in the NAS report are representative, then some of the most successful ecological applications arise when (and because) scientists have a great deal of knowledge about the specific organisms investigated in a particular case study. As the authors of the NAS report put it, “the success of the cases described ... depended on such information” (Orians et al. 1986, 506ff.; Shrader-Frechette and McCoy 1994; Shrader-Frechette 1995; Miao et al. 2009).

Third, one also might improve environmental ethics and policy by tying public health and environmental concerns together—by motivating environmental concern through encouraging awareness of how environmental pollution and destruction also harm humans. How does environmental pollution, for instance, harm humans? The United States National Cancer Institute (NCI) attributes about 10% of cancer deaths (about 60,000 annually, just in the United States) to industrial pollution in workplaces, public areas, and consumer products (HHS, NCI 1991). This figure has also been confirmed in 2005 United States National Academy of Sciences studies (McGinnis 2005). Claiming this NCI figure is too low, some environmental scientists say these same industrial pollutants cause up to 33% of all United States cancers (Ehrlich and Ehrlich 1996, 154). United States health, education, and welfare reports are even more damning. Some of them say 38% of all cancers are caused by only five high-volume industrial carcinogens (Bridbord et al. 1978). Even if the lowest of these estimates is correct, it points, at least, to a public health problem and an ethics problem. The public health problem is that we humans are killing ourselves with environmental pollutants although these deaths are “theoretically preventable” (Lashoff et al. 1981, 3 and 6).

A key ethical problem with this massive pollutant-induced harm is that the fatalities are not borne equitably among the population. Consider a 2002 *New England Journal of Medicine* study, a multi-year analysis of

childhood cancer among 90,000 twins. Designed to distinguish environmentally-induced cancer from those caused by genetics, infections, or viruses, the study concluded that the environment (industrial toxins but also including factors like cigarette smoke) was “overwhelmingly” implicated in causing virtually all of childhood cancers (Lichtenstein et al. 2002). Although many adults have defenses against premature disease and death caused by air, water, and other environmental pollution, children do not. Their developing organ systems, incomplete metabolic processes, and only partially developed detoxification systems are less able to withstand most toxins; yet per unit of body mass, children take in more air, water, and food (and thus more pollutants) than do adults (UNICEF 2006). Also, because many pollution regulations focus on cancer and only on adults, they ignore pollution-induced developmental and neurological disorders in children. United States National Academy of Sciences studies show that “exposure to neurotoxic compounds [like pesticides] at levels believed to be safe for adults can result in permanent loss of brain function if it occurs during the prenatal and early childhood period of brain development” (NRC 1993, 61).

In general, children are at least 10 times more sensitive to any pollutant than are adults, yet for some pollutants, like organophosphate pesticides, a lethal dose in immature animals can be only 1% of the lethal dose for adults (Spyker and Avery 1977). Similarly, neurodevelopmental disorders such as autism, attention-deficit hyperactivity disorder (ADHD), mental retardation, and cerebral palsy are increasing, are very costly, cause lifelong disability, and are known to be associated with industrial chemicals such as lead, methylmercury, polychlorinated biphenyls (PCBs), arsenic, and toluene. Exposure to these and other chemicals during early fetal development can cause human brain injury at doses much lower than those that harm adult brain function (Grandjean and Landrigan 2006). The American Public Health Association thus warns that because “children are often more susceptible to environmental

contaminants than adults,” and because government “policies and decisions” often fail to reflect this “unique susceptibility,” children have “particular need for special protection from pollutants” (APHA 2000, pol. 200011). Yet, most nations of the world fail to give children this protection and thus subject them to environmental injustice, that is, to unequal and unjust pollution impacts. For instance, *Lancet* authors say that particulate air pollution alone annually causes 6.4% of children’s deaths, ages 0–4, in developed nations; in Europe, this means that air particulates, alone, kill 14,000 toddlers each year (Valent et al. 2004). The World Health Organization says air pollution alone is associated with up to half of all childhood cancers (WHO 2005, 155). As a consequence of children’s greater sensitivity to pollutants, although cancer is increasing 1% per year for adults, the annual rate of increase for children is 40% higher—1.4% per year (Devesa et al. 1995; Ries et al. 1998; Epstein 2002). Children are thus “the canaries in the coal mines” of industrial emissions.

How should people respond to this disproportionate environmental harm borne by the most vulnerable members of society, children, as well as by the environment? To the degree that individuals have participated in, or derived benefits from, social institutions—such as poor government pollution controls—that have helped cause life-threatening or rights-threatening environmental harm, one can argue that these individuals have *prima facie* duties either to stop their participation in such damaging institutions or to compensate for this harm by helping to reform the institutions that allow the harm. (*Prima facie* duties are those that one has, in the absence of specific arguments to the contrary.) Yet, virtually everyone in the developed world—who enjoys at least a middle-class lifestyle—has participated in, or derived benefits from, social institutions—such as poor government pollution controls—that have helped cause life-threatening or rights-threatening environmental harm. Why are so many of us responsible for pollution harm?

In virtually every nation of the world, poor people, minorities, and children bear greater pollution burdens than the rest of the population—the middle-class population, especially in developed nations. Proportionately more landfills, power plants, toxic-waste dumps, bus and rail yards, sewage plants, and industrial facilities are sited in the neighborhoods of poor people and minorities; as a result, they bear higher levels of cancer, preventable death, infectious disease, contaminated air and contaminated tap water. Thus, “exposure to environmental risks varies based on race and ... income” (APHA 2005). For instance, in virtually all nations, middle-class people have their garbage removed to the neighborhoods of poor people, where it is burned or buried and causes harm. Or, for instance, poor people and minorities live in more polluted areas because wealthier people can afford not to do so. Wealthier people and adults thus “buy their way” out of many problems of environmental pollution. They are able to do so because wealthier people can pay attorneys and scientists to help them avoid noxious facilities in their own neighborhoods, whereas poor people cannot. As a result, wealthier people are able to impose these environmental burdens on the poor, through environmental injustice (Shrader-Frechette 2007, 2002; Bryant 1995; Bullard 1994).

But if people have *prima facie* duties to compensate for the life-threatening, rights-threatening, and unequal distributions of environmental pollution from which they unfairly benefit, one can argue that this compensation ideally ought to take the form of helping to reform social institutions that contribute to life-threatening environmental pollution and environmental injustice. As such, this argument relies on two basic claims about different types of responsibility. One claim is that if citizens have unfairly benefited from and therefore contributed to unequal pollution harm, they bear *ethical responsibility* for helping to stop it. The second claim is that if citizens live in a democracy, and therefore are entitled to participate in nations and institutions whose environmental policies and practices contribute to pollution harm and to environmental

injustice, they also have *democratic responsibility* to help stop it. Although there is no space to develop this full argument here, it has been developed elsewhere, along with answers to objections to it. It clearly shows that people who are at least middle class, especially in developed, democratic nations, have duties to help stop life-threatening pollution harm, and that these duties bind us because people have basic human rights to equal consideration. Those who contribute to unequal pollution-protection consideration—as many do, by virtue of imposing pollution burdens on the most vulnerable members of society, such as poor people, minorities, and children—obviously have duties of compensatory justice to their fellow humans—duties that also would go a long way toward protecting the environment (Shrader-Frechette 2007, 2002)

CONCLUSION

The modest, practical, environmental ethics for which we have argued relies on the practice of ecologists and on their individual cases and on unavoidably human, but well-substantiated and non-stipulative judgments about environmental management. Ecology, however, may not be seriously flawed because it must sacrifice universality for utility and practicality, or because it must sacrifice generality for the precision gained through case studies. Similarly, environmental ethics is not flawed because it must rely on solutions that rely on ethical default rules and on combining human rights and public health progress with environmental progress and protection. Traditional ethics can give us powerful weapons for defending the environment.

BIBLIOGRAPHY

- Agar, N. 2001. *Life's Intrinsic Value*. New York: Columbia University Press.
- Ale, S., and H. F. Howe. 2010. "What Do Ecological Paradigms Offer to Conservation?" *International Journal of Ecology* 2010. doi: 10.1155/2010/250754.
- American Public Health Association (APHA). 2000. *2000 Policy Statements, the Precautionary Principle and Children's Health*, policy 200011. Washington, DC: APHA.
- American Public Health Association (APHA). 2005. *Priority 2005 Issues: Fact Sheets, Health Disparities, Environmental Disparities, and Racial/Ethnic Disparities*. Washington, DC: APHA.
- Aquinas, T. 1975. *Summa Contra Gentiles*, translated by V. J. Bourke. London: University of Notre Dame Press.
- Aristotle. 1948. *Politics*, translated by E. Barker. Oxford: Oxford University Press.
- Attfield, R. 1998. "Saving Nature, Feeding People, and Ethics," *Environmental Values* 7: 291–304.
- Blouin, M., and E. Connor. 1985. "Is There a Best Shape for Nature Reserves?" *Biological Conservation* XXXII (3): 277–288.
- Boecklen, W. J., and D. Simberloff. 1987. "Area-Based Extinction Models in Conservation." In *Dynamics of Extinction*, edited by D. Elliot, 247–276. New York: Wiley.
- Brennan, A. 1988. "Poverty, Puritanism, and Environmental Conflict," *Environmental Values* 7 (3): 305–331.
- Bridbord, K., et al. 1978. *Estimates of the Fraction of Cancer in the United States Related to Occupational Factors*. Bethesda: NCI, National Institute of Environmental Health Sciences, and National Institute for Occupational Safety and Health.
- Bryant, B. (ed.). 1995. *Environmental Justice*. Washington: Island Press.
- Bullard, R (ed.). 1995. *Unequal Protection*. San Francisco: Sierra Club Books.
- Callicott, J. B. 1982. "Hume's Is/Ought Dichotomy and the Relation of Ecology to Leopold's Land Ethic." *Environmental Ethics* 4 (2): 163–174.
- Callicott, J. B. 1989. *In Defense of the Land Ethic: Essays in Environmental Philosophy*. Albany: Suny Press.
- Calsbeek, R., et al. 2009. "Parallel Shifts in Ecology and Natural Selection in an Island Lizard." *BioMedCentral Evolutionary Biology* 9: 3.
<http://www.biomedcentral.com/1471-2148/9/3>.
- Clark, C., and M. Mangel. 2000. *Dynamic State Variable Models in Ecology*. New York: Oxford University Press.
- Connell, J. H. 1978. "Diversity in Tropical Rain Forests and Coral Reefs," *Science* 199: 1302–1310.
- Cooper, A. 1982. "Why Doesn't Anyone Listen to Ecologists—and What Can ESA Do About It?" *Bulletin of the Ecological Society of America* 63: 348.
- De La Plante, K. 2004. "Toward a More Expansive Conception of Ecological Science," *Biology and Philosophy* 19, 2: 263–281.
- De La Plante, K., and J. Odenbaugh. Forthcoming. "What Isn't Wrong with Ecosystem Ecology." In *Philosophy Across the Life Sciences*, edited by R. A. Skipper et al. MA: MIT Press.
- De Shalit, A. 1994. *Why Does Posterity Matter?* London: Routledge.
- Devesa, S., et al. 1995. "Recent Cancer Trends in the United States." *Journal of the National Cancer Institute* 87 (3): 175–182.

- Ehrlich, P. and A. Ehrlich. 1996. *Betrayal of Science and Reason*. Washington, DC: Island Press.
- Epstein, S. 2002. "Reversing the Cancer Epidemic," *Tikkun* 17, 3: 56–66.
- Farr, D. 2002. "Indicator Species." In *Encyclopedia of Environmetrics*, edited by A. El-Sharaawi, and W. Piegorisch. New York.
- Fisher, E., et al. (eds.). 2006. *Implementing the Precautionary Principle: Perspectives and Prospects*. Cheltenham, UK: Edward Elgar.
- Fox, W. 2007. *A Theory of General Ethics: Human Relationships, Nature, and the Built Environment*. Cambridge, MA: MIT Press.
- Grandjean, P. and P. Landrigan. 2006. "Developmental Neurotoxicity of Industrial Chemicals." *Lancet* 368: 2167–2178.
- Guha, R. 1989. "Radical American Environmentalism and Wilderness Preservation: A Third World Critique." *Environmental Ethics* 11: 71–83.
- Hansen, A., and R. DeFries. 2007. "Ecological Mechanisms Linking Protected Areas to Surrounding Lands." *Ecological Applications* 17: 974–988.
- Hanssen, L., et al. 2009. "The Role of Ecological Science in Environmental Policy-Making." *Ecology and Society* 14 (1): 43.
<http://www.ecologyandsociety.org/vol14/iss1/art43/>.
- Health and Human Services (HHS) and National Cancer Institute (NCI). 1991. "Health Status Objectives." *Cancer* 16 (1): 416–440.
- Jamieson, D. 2001. *Morality's Progress: Essays on Humans, Other Animals, and the Rest of Nature*. Oxford: Clarendon Press.
- Kant, I. 1963. "Duties to Animals and Spirits." In *Lectures on Ethics*, translated by L. Infield. New York: Harper and Row.
- Kay, J. and H. Regier. 2000. "Uncertainty, Complexity, and Ecological Integrity: Insights from an Ecosystem Approach." In *Implementing Ecological Integrity: Restoring Regional and Global Environmental and Human Health*, edited by P. Crabbe et al., 121–156. Norwell, MA: Kluwer.
- Lashof, J., et al. 1981. *Assessment of Technologies for Determining Cancer Risks from the Environment*. Washington, DC: Office of Technology Assessment.
- Leopold, A. 1949. *A Sand County Almanac*. Oxford: Oxford University Press.
- Levins, R. 1974. "The Qualitative Analysis of Partially-Specified Systems." *Annals of the New York Academy of Sciences* 231: 123–138.
- Lichtenstein, N. 2006. *Wal-Mart*. New York: New Press.
- Light, A., and E. Katz. 1996. *Environmental Pragmatism*. London: Routledge.
- Martinez-Alier, J. 2002. *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*. Cheltenham: Edward Elgar.
- May, R. 1973. *Stability and Complexity in Model Ecosystems*. Princeton: Princeton University Press.
- McGinnis, J. 2005. "Attributable Risk in Practice." *Estimating the Contributions of Lifestyle-Related Factors to Preventable Death*. 17–19. Washington, DC: National Academy Press.
- Miao, S., et al. 2009. *Real World Ecology: Large-Scale and Long-Term Case Studies and Methods*. New York: Springer.
- Naess, A. 1973. "The Shallow and the Deep, Long-Range Ecology Movements: A Summary." *Inquiry* 16: 95–100.

- National Research Council (NRC). 1993. *Pesticides in the Diets of Infants and Children*. Washington, DC: National Academy Press.
- Norton, B. 1991. *Toward Unity Among Environmentalists*. New York: Oxford University Press.
- Odenbaugh, J. 2005. "Idealized, Inaccurate, but Successful," *Biology and Philosophy* 20: 231–255.
- O'Neill, J. 1992. "The Varieties of Intrinsic Value." *Monist* 75: 119–137.
- O'Neill, J. 1993. *Ecology, Policy and Politics*. London: Routledge.
- Orians, G. H., et al. 1986. *Ecological Knowledge and Environmental Problem Solving*. Washington, DC: National Academy Press.
- Paine, R., and S. Levin. 1981. "Intertidal Landscapes: Disturbance and the Dynamics of Pattern." *Ecological Monographs* 51: 145–178.
- Passmore, J. 1974. *Man's Responsibility for Nature*, London: Duckworth.
- Pimentel, D., L. Westra and R. Noss, (eds.). 2000. *Ecological Integrity: Integrating Environment, Conservation, and Health*. Washington, DC: Island Press.
- Regan, T. 1983. *The Case for Animal Rights*. London: Routledge and Kegan Paul.
- Regier, H. 1992. "Indicators of Ecosystem Integrity." In *Ecological Indicators*, edited by D. McKenzie, D. Hyatt and V. McDonald, 183–200. Fort Lauderdale: Elsevier.
- Ricci, P., et al. 2003. "Precaution, Uncertainty and Causation in Environmental Decisions." *Environment International* 29 (1): 1–19.
- Rolston, H. 1975. "Is There an Ecological Ethic?" *Ethics* 85: 93–109.
- Rolston, H. 1988. *Environmental Ethics: Duties to and Values in the Natural World*. Philadelphia: Temple University Press.
- Rolston, H. 1996. "Feeding People versus Saving Nature?" In *World Hunger and Morality*, edited by W. Aiken and H. LaFollette, 248–267. Englewood Cliffs: Prentice Hall.
- Rousseau, J. 1979. *Reveries of the Solitary Walker*. New York: Penguin Books.
- Routley, R. 1973. "Is There a Need for a New, an Environmental Ethic?" *Proceedings of the 15th World Congress of Philosophy*, 205–210. Sophia: Sophia Press.
- Routley, R., and V. Routley. 1980. "Human Chauvinism and Environmental Ethics." In *Environmental Philosophy*, edited by D. Mannison, M. McRobbie, and R. Routley, 96–189. Canberra: Australian National University.
- Sagoff, M. 1985. "Fact and Value in Ecological Science." *Environmental Ethics* 7 (2): 99–116.
- Salthe, S. 2005. "The Natural Philosophy of Ecology." *Ecological Complexity* 2, 1: 1–19.
- Shrader-Frechette, K. 1981. *Environmental Ethics*. Pacific Grove, California: Boxwood Press.
- Shrader-Frechette, K. 1995. "Practical Ecology and Foundations for Environmental Ethics." *Journal of Philosophy* XCII (12): 621–635.
- Shrader-Frechette, K. 1996. "Individualism, Holism, and Environmental Ethics," *Ethics and the Environment* 1: 55–69.
- Shrader-Frechette, K. 2002. *Environmental Justice: Creating Equality, Reclaiming Democracy*. Oxford: Oxford University Press.
- Shrader-Frechette, K. 2007. *Taking Action, Saving Lives*. Oxford: Oxford University Press.
- Shrader-Frechette, K., and E. McCoy. 1993. *Method in Ecology*. New York: Cambridge University Press.
- Shrader-Frechette, K., and E. McCoy. 1994. "Applied Ecology and the Logic of Case Studies." *Philosophy of Science* LXI (1): 228–249.

- Simberloff, D., and J. Cox. 1987. "Consequences and Costs of Conservation Corridors." *Conservation Biology* 1 (1): 63–71.
- Sober, E. 2006. "Evolution, Population Thinking, and Essentialism." In *Conceptual Issues in Evolutionary Biology*, edited by E. Sober, 329–363. Cambridge: MIT Press.
- Spyker, J., and D. Avery. 1977. "Neurobehavioral Effects of Prenatal Exposure to the Organophosphate Diazinon in Mice." *Journal of Toxicology and Environmental Health* 5: 989–1002.
- Stamos, D. 2003. *The Species Problem: Biological Species, Ontology, and the Metaphysics of Biology*. Lanham, MD: Lexington Books.
- Stone, C. 1974. *Should Trees Have Standing?* Los Angeles: Kaufmann.
- Stouffer, P., et al. 2011. "Understory Bird Communities in Amazonian Rainforest Fragments," *PLoS ONE* 6, 6: e20543. doi:10.1371/journal.pone.0020543. <http://www.plosone.org/article/citationList.action;jsessionid=B3BCB56D87034332119A03923D4AF0.ambra>
- Taylor, P. 1986. *Respect for Nature*. Princeton, NJ: Princeton University Press.
- United Nations International Children's Emergency Fund (UNICEF). 2006. *State of the World's Children, 2005*. New York: UNICEF.
- Valent, F., et al. 2004. "Burden of Disease Attributable to Selected Environmental Factors and Injury among Children and Adolescents in Europe." *Lancet* 363, 9426: 2032–2039.
- Walters, J. 1991. "Application of Ecological Principles to the Management of Endangered Species: The Case of the Red-Cockaded Woodpecker," *Annual Review of Systematics* XXII: 505–523.
- Waltner-Toews, D., and J. Kay. 2002. "An Ecosystem Approach to Health." *LEISA* 18: 1. <http://www.jameskay.ca/about/ecosys.html>.
- Williams, B. 1992. "Must a Concern for the Environment be Centred on Human Beings?" In *Making Sense of Humanity and Other Philosophical Papers*, edited by B. Williams, 233–240. Cambridge: Cambridge University Press.
- Williamson, M. 1987. "Are Communities Ever Stable?" *Symposium of the British Ecological Society* XXVI: 353–70.
- World Health Organization (WHO). 2005. *Effects of Air Pollution on Children's Health*. Bonn: WHO.

>> Despite its importance in addressing the widespread global destruction of nature, contemporary environmental ethics often relies on two misguided claims. These are 1. that ecology provides reliable scientific laws for remedying environmental destruction; 2. that environmental ethics should be biocentric, not anthropocentric, and therefore that nonhuman beings should be accorded equal consideration of their interests, just as humans are. However, among other reasons, 1. is scientifically false because ecology has no such deterministic laws, and 2. leads to “environmental fascism” and provides for no second-order criteria to adjudicate among different interests and rights of different beings. Instead of these questionable claims, the chapter argues for three new principles—based on ethical default rules, scientific-case-study ethics, and human rights against pollution.

KRISTIN SHRADER-FRECHETTE

University of Notre Dame

IV. ETHICS IN BUSINESS

A HISTORY OF BUSINESS ETHICS

Richard T. de George

The history of “business ethics” depends on how one defines it. Although the term is used in several senses and varies somewhat for different countries, its current use originated in the United States and became widespread in the 1970s. The history of business ethics in the United States can be viewed as the intersection of three intertwined strands. Each of these in turn can be divided into at least two related branches. The first strand, which I shall call the ethics-in-business strand, is the long tradition of applying ethical norms to business, just as it has been applied to other areas of social and personal life. This strand can be divided further into the secular and the religious branches. The second strand is the development of an academic field, which has been called business ethics. It also has two main branches, one being the philosophical business-ethics branch, which is normative and critical, and the other the social-scientific branch, which is primarily descriptive and empirical. The third strand is the adoption of ethics or at least the trappings of ethics in businesses. This again subdivides into the integration of ethics into business and business practices on the one hand and the commitment to corporate social responsibility on the other. Business ethics was introduced into Europe and Japan in the 1980s although the term did not translate easily, and the development in each country varied from that in the United States because of socio-political-economic differences. It then

spread in a variety of ways to other parts of the world, each time with a different local emphasis and history. On the world-wide level it became associated with the UN Global Compact, initiated by the then UN Secretary-General Kofi Annan in an address to The World Economic Forum on January 31, 1999, and officially launched in July, 2000.¹

Of the three strands, the first, or the ethics-in-business strand, is the most amorphous and the most widespread. This is the sense in which the general public, news reporters and commentators, politicians and many business people tend to use the term. In this sense business ethics is nothing new, although that term was not used to describe it before the 1970s. The strand represents the widely-held belief that ethics applies in business just as it applies in all areas of life. The scandals about bribery, insider trading, false advertising, and the like, the stories about Enron and Arthur Andersen and Bernard Madoff's Ponzi scheme, constitute what is generally regarded as misconduct in business and what the general public associates with business ethics—or more precisely, with the failure of businesses to act ethically. The moral norms that are violated apply to all sections of society. Mention business ethics and you are likely to provoke a story about the misdeeds of some business or some business person. Peter Drucker, a well-known business-management theoretician, was one of those who claimed that there is no such thing as business ethics, only ethics in business. He viewed what he saw as business ethics (Drucker 1981) as different attempts to justify business practices that were clearly immoral by ordinary standards.² He was correct in attacking such attempts, but he wrote before the development of the academic field. Most of those in the current academic field agree that ordinary moral rules apply in business just as they do in all other areas of life.

¹ For information on the Compact, see the official UN website <http://www.unglobalcompact.org>.

² For a reply to his position, see Hoffman and Moore (1962).

The history of ethics in business goes back as far as both ethics and business. We can imagine the earliest bartering based on a principle of equal exchange. I mentioned two branches—the secular and the religious, and in both of them we find a parallel history of the development of ethics as it applies to business. Aristotle in the *Nicomachean Ethics* (V, 5), wrote of justice being the exchange of equals for equals and in the *Politics* (I, 8–10) he discusses “the art of acquisition,” trade, and usury as part of the ethics of the household. If we jump to the modern era, John Locke (1690) developed a defense of private property as a natural right based on the labor one applies to securing the good in question. Adam Smith, who wrote *A Theory of Moral Sentiments* before he wrote *The Wealth of Nations*, wrote about the ethics of business—as well as the lack thereof that took place among colluding businessmen. David Hume, John Stuart Mill, and many others wrote on the morality or ethics of the developing free-enterprise economic system. Karl Marx developed the most trenchant attack on what he termed capitalism, a period of history which he considered necessary and in which he admitted human productivity had developed more than during any other period. For him the problem with capitalism was that most of the benefits were reaped by the few, when there was enough to better the lot of all. His critique still has followers today. All of these writers have added to the history of ethics in business and their thoughts have filtered down in various ways to the general populace. It is not that the ordinary person or members of the media have read all of these works. Rather what these authors wrote in various ways has become part of the accepted view of business and ethics. For example, very little thought or argument is given in the press or media to the moral justification of private property. Rather it is taken as a given in most developed countries that each person has a right to own property, and that such property should be protected by law. Though the proper function of government is debated, the foundations of property, the legitimacy of private enterprise, and the wage system of labor are widely taken for granted as the accepted and acceptable economic

structure of society. Karl Marx's critique of capitalism never took serious hold in the United States, and unlike in many European countries, no democratic socialist political party ever developed there. Nonetheless, Marx's critique of exploitation, his condemnation of making commodities more important than people and of judging people by what they have instead of what they are, resonates even in American culture.

The rise since the 1970s of what is called business ethics followed the tumultuous period of the 1960s. In that era the Civil Rights movement in the United States developed as did the beginnings of the environmentalist and the consumerist movements. The Vietnam War resulted in protests against the government's involvement, and there was a reaction on the part of many activists against what was known as the military-industrial complex. At the end of World War II the United States was the only large power remaining that had not suffered serious devastation. As a result, American business flourished and developed a world-wide reach. With large industry, especially the enormous growth of chemical petroleum-based industries, pollution on a large scale became a problem.

Environmental groups sprang up to attack business. Those who saw the global reach (e.g. Barnett 1974) of American business as exploitative added their voices to the critics of big business. Many of the criticisms were couched in moral terms, and when in the late 1970s the academic field of business ethics arose, it provided a vocabulary and overarching framework that the critics seized on and that soon spread to the media and to general culture.

The second branch of the ethics-in-business strand, i.e., the religious, also has a long history, and similarly has filtered down and influenced general thinking about ethics in business. Many businesspeople live their business lives guided by their religious moral beliefs, and many of those affected by business practices evaluate them in the same light. The major religious influence on American economic culture is the Judeo-Christian. Others,

such as Islamist and Buddhist, Hindu and Confucian are, of course, the primary religious influences on business ethics in the countries in which they are dominant.³ The sources of ethics in business in the Judeo-Christian tradition go back at least to the Ten Commandments (Exodus, 20: 1–17; Deuteronomy, 5: 7–21), especially the commandments not to steal and not to bear false witness or lie. In the Middle Ages the Church had long prohibited usury and the practice of making money from money, although its position eventually changed to prohibit only excessive interest, rather than all interest payments.⁴ Christianity has always been ambivalent towards business and riches. Christ's reply to the rich man that "it is easier for a camel to go through the eye of a needle than for a rich man to enter the kingdom of God" (Matthew, 19: 23–24, Mark, 10: 24–25, and Luke, 18: 24–25) captures that ambivalence. The Church has a long history of concern for the poor, and the administering of charity to those in need. But it did not raise its voice against slavery, for instance, and St. Paul even cautions slaves to obey their masters (Colossians, 3: 22). It was not until the late 19th century that the Catholic Church developed a program of social justice when Pope Leo XIII (1891) issued an encyclical, *Rerum Novarum*, laying out precepts for a just wage. Later Popes have developed Catholic social thought, embracing a defense of the worker. Pope John Paul II in the encyclicals *Laborem exercens* (1981) and *Centesimus annus* (1991) morally evaluated and morally criticized both socialism and capitalism and addressed the needs of developing nations. He outlined what is known as a "preferential option for the poor." Although the Catholic Bishops of the United States also came out with a letter on the economy (*Economic Justice for All*), its impact on the business community and the general public has not been significant. In the

³ For a brief summary of the major religions and their contributions to business ethics, see Mele (2006). There is a good collection of religious and secular texts and essays in Stackhouse et al. (1995).

⁴ For St. Thomas Aquinas on usury (he followed Aristotle on this point), see his *Summa Theologica*, II-II, 78, 1–4.

Protestant tradition, Calvinism developed what is called the Protestant (or Puritan) work ethic, namely, the doctrine that hard work was a calling and a means of achieving success, and that economic success was a sign of one's preordained salvation.⁵ That tradition melded well with the American belief in hard work as the road to success.

The scandals about bribery, insider trading, false advertising, and the like, constitute what is generally regarded as misconduct in business and what the general public associates with business ethics—or more precisely, with the failure of businesses to act ethically

The notion of business ethics as ethics-in-business continues to this day. It is part of the popular culture and finds expression in the media coverage of ethical and legal abuses in business, and of business scandals and their aftermaths. Invariably, after a scandal some columnist or politician will point a finger at business schools and their failure to train their students in ethics, or at the failure of the academics in business ethics. The prevalence of ethics in business in the popular culture is exemplified by the popularity of such movies as *All my Sons*, *Wall Street*, *Network*, and *Silkwood*, among dozens of others.⁶ Although what is included in the notion of ethics-in-business varies in different countries, depending on the socio-economic-historic conditions, everywhere there is a basic sense that ethics has a place in business as in other areas of life. This becomes clear when we see, as we have, popular protests when a government's rampant corruption becomes public, and when government

⁵ This formulation is generally attributed to Weber (1976).

⁶ For a list of films on business ethics, see <http://www.west.aus.edu/johnso/business/ethics.cfm>.

leaders are exposed for taking bribes from corporations on a large scale and enrich themselves at the expense of the people of a country.

This very general and somewhat amorphous sense of business ethics was not clearly articulated and arose as an identifiable phenomenon only after business ethics in a stricter sense developed as an academic field. It is to that history that we now turn.

The many movements in the United States in the 1960s and 1970s led to attacks on business and responses from business. The 1960s saw the introduction in business schools of courses in social issues in management and corporate social responsibility. But they were largely ad hoc and even those in the forefront of the academic move in this direction admitted that the courses lacked a cohesive basis or approach. That in turn led to what has become known as business ethics in the second sense. The term, as currently used, arose with the entry of a group of philosophers into the area, and it was patterned after the term “medical ethics” which had developed in the 1960s.⁷ Business ethics rapidly emerged as an academic field.

As an academic field, ethics can be considered as the study of morality. Each society has a morality—a set of practices that it considers right or wrong, values that it champions, and rules that it enforces. Ethics is the systematic study of the generally-held (or conventional) morality of a society aimed at determining the rules which *ought* to govern human behavior, the rules that a society *ought* to enforce, and the virtues worth developing in human life. As an academic discipline it seeks to establish justification(s) for the existing portions of morality that can be defended

⁷ Ethics in medicine, of course, goes back at least as far as ancient Greece and the Hippocratic Oath. But medical ethics in its current form started in the 1960s with the development of medical (especially heart transplant) technology and the rise of interest in patients' rights.

and ought to be preserved, and it is critical of those portions of conventional morality that are inconsistent or for other reasons ought to be changed. It is thus partially conservative and partially radical, and at different periods in different societies one or the other of these aspects is dominant. In the United States in the 1860s, the American Civil War was in part a response to the moral condemnation of the institution of slavery as existing in the Southern states of the Union. By analogy, business ethics as an academic field is the systematic study of the morality existing in business—the business practices, the values, the presuppositions and so on actually existing. It is partially conservative and partially radical or critical. In general, for instance, the field has defended private property but it has been critical of the exploitation by multinationals of workers in less-developed countries and of bribery and corruption as practiced by business.

Prior to the development of business ethics as a field there were individual courses here and there on moral issues in business, and lectures and articles about ethics in business. The term 'business ethics' as found in the earlier literature referred to the ethics-in-business meaning of the term. What, dating from the 1970s, differentiated business ethics as an academic field from ethics in business was that it attempted to systematically study the entire range of ethical issues in business as a comprehensive whole. The philosophers who began the endeavor typically started from a comprehensive ethical framework supplied by ethical theory. This could be a version of utilitarianism (which examines the consequences of actions), a Kantian approach to ethical issues (which assumes that duty and rights are basic) or an Aristotelian approach (which places virtue in the center and analyses the character of moral actors—in this case, those in business) or a combination of two or more of them. As with the ethics-in-business strand, the business-ethics movement eventually came to consist of two branches: the philosophical, which was normative and prescriptive, and the empirical, which was

descriptive and the area of those trained in the social sciences. The two branches have merged to some extent. The empirical stream typically built on the already-existing social issues in management and the corporate social responsibility courses and structures in the business schools and business education. The philosophical stream came from philosophy departments and the applied-ethics area, of which medical ethics was the forebearer.

As it developed, business ethics came to include analysis of six different levels of ethical concern. The first is the level of the individual. This deals not only with what individuals ought to do when faced with ethical dilemmas or moral problems in business, but also with matters of character, individual self-development on the job, the virtues appropriate to business life, and the integration of ethics on the job with one's ethics and ethical obligations as a family member, a member of a community, and a member of the greater society at large. The emphasis on character development is especially central to those who take an Aristotelian approach to business ethics. The second level is that of the firm. It concerns issues of the internal structures of business that tend to reinforce and promote ethical activity by employees or structures that tend to promote unethical activity (characterized by the injunction: "Get this done by the deadline and I don't care how you do it."). This is the level of corporate policy, of corporate culture, of responsibilities to the various stakeholders of a company, and to corporate social responsibility to the extent that such responsibility is ethical responsibility. The third level is that of a particular industry. The extractive industries pose special ethical problems, as do the chemical industries, and many others. The ethical issues in many cases cannot be solved on the level of any individual firm but only on the industry level. The next level is the national level, and here there are issues of legislation, controls on business activities, the protection of workers and consumers, limitations on pollution, the prevention of child labor and exploitation, and so on. The fifth level is the

international, and deals with the many ethical issues raised by multinational corporations, especially the actions of multinationals from the developed countries operating in less-developed countries in which the local laws do not adequately protect the country or its members. The sixth level is the global level and this deals with the ethical responsibility of corporations to help in the solutions of global issues, such as depletion of the ozone level, global warming, and similar topics that can only be adequately solved on the global level but for which businesses as well as nations bear responsibility.

Business ethics as an academic field is the systematic study of the morality existing in business—the business practices, the values, the presuppositions and so on actually existing

According to an account by Norman Bowie, the first conference on business ethics was held in 1974 (Bowie 1986) and the papers were published as *Ethics, Free Enterprise and Public Policy* (De George and Pichler 1978). In the late 1970s Norman Bowie, under a grant from the National Endowment for the Humanities, chaired a committee to develop a model curriculum for business-ethics courses. About the same time Richard De George developed a course in business ethics and circulated a ninety-page course curriculum to 900 interested professors in business schools and philosophy departments. In 1979 the first texts in business ethics appeared: three anthologies—one by Tom Beauchamp and Norman Bowie, another by Thomas Donaldson and Patricia Werhane, and a third by Vincent Barry—followed by two single authored texts in 1982—one by Richard De George and the other by Manuel Velasquez. The books found a ready market and courses were introduced in philosophy departments and business schools. Courses and competing texts increased rapidly.

The texts came to cover the range of ethical issues in business, starting from meta-ethical questions such as whether moral language which was typically used to refer to human moral agents could appropriately be used to refer to corporations, whether corporations were moral agents, whether one could one meaningfully speak of the conscience of a corporation, and whether the criteria for moral responsibility (having knowledge and will) made sense when applied to corporations. The questions were answered in different ways, some reducing the actions of corporations to the actions of the individuals who made up a corporation, some making the necessary accommodations in the use of moral terms to apply appropriately to corporate actions. The normative issues covered the spectrum of business activities, starting with the moral justifiability (or unjustifiability) of economic systems—in particular capitalism and socialism—and moving on to the areas of business: manufacturing, management, marketing, finance, corporate governance, workers rights, business and the environment, and later the international dimensions of business and the impact of computers and the Internet on the conduct of business. The international dimension included the actions of multinational or transnational corporations, child labor, exploitation of less-developed countries both with respect to labor and with respect to the environment, bribery, and operating in corrupt environments. With the demise of the Soviet Union in 1991, capitalism seemed to emerge as the dominant economic system, and the role of ethics in countries in transition to incipient capitalism grew in importance.

The philosophical approach was normative and looked critically at the moral justification of private property, the proper role of government and government regulation of business, and the morality of business practices. While the ethics-in-business approach for the most part was concerned with scandals and abuses that came to the public's attention, those in business ethics examined the structure of capitalism and the structures of business, sometimes articulating the underlying moral

justification of existing structures and practices and sometimes criticizing them from a moral point of view and arguing for change.

The descriptive component of business ethics was developed by those trained in the social sciences and working in business schools. This branch grew out of the social issues in business first developed in the 1960s, and initially did not go under the title of business ethics. The relationship of social issues in business or social issues in management and business ethics is a contentious one, with social-issues advocates claiming business ethics as a part of their field and those in philosophical business ethics claiming social issues as the empirical portion of their field. The dispute has historical roots. The philosophers came in the 1970s and 1980s and intruded on territory that those in social issues of business had in some sense staked out as their own. The tension continues up to the present. Whether business ethics included corporate social responsibility or whether corporate social responsibility included business ethics was an internal debate. However one comes out in that dispute, the philosophical branch of academic business ethics emphasized the normative aspects of business ethics, and the social sciences branch emphasized the descriptive aspects of business ethics, looking at and describing the practices actually found in businesses. The latter studied different effects of different practices, as well as differing attitudes toward given business practices in different societies.⁸ Social issues in management include ethics as one component—but business ethics includes much more than social issues; not all social issues are ethical issues, even though many social issues can be viewed from a moral perspective; and one can make a moral evaluation of economic, legal and social aspects of business.

⁸ For an overview, see Treviño et al. (2006). Two textbooks that integrate ethics into practical advice based on empirical research for people in business are Treviño and Nelson (2011), and Gentile (2010).

The descriptive approach has proved more congenial to business since it is less critical and, being empirical, is more suited to business's empirical approach. The philosophical approach was, and to some extent is, considered with suspicion by many in business, and at first those in favor of the philosophical approach to business ethics were not welcomed by business, by those concerned with social issues, or by business schools in general. All of them questioned the credentials of those in philosophy to evaluate complex issues in business, and often the philosophical approach was assumed to be antithetical to business. At the same time, many philosophy departments felt that those who engaged in the study of business ethics were not really doing philosophy as they defined philosophy. Despite these initial reactions, by the 1990s business ethics was well established as an accepted academic field.

The philosophical branch of academic business ethics emphasized the normative aspects of business ethics, and the social sciences branch emphasized the descriptive aspects of business ethics

The emphasis was initially on and still concerns primarily large corporations. But the investigation of ethical issues with respect to small and medium-sized businesses is increasing.

The Society for Business Ethics (SBE) was founded in 1980,⁹ primarily by those in the philosophy stream. The Social Issues in Management Division of the Academy of Management, which became the major organization for

⁹ The first meeting was held on April 25, 1980, in Detroit, in conjunction with the meeting of the American Philosophical Association, Western Division. Organizational meetings had taken place during the previous two years. Thomas Donaldson was the Director of the Organizing Committee. The first Executive Committee consisted of Richard De George, Thomas Donaldson and Patricia Werhane.

those on the descriptive side of business ethics, had existed since 1976. The SBE met initially in conjunction with the American Philosophical Association. In 1989 it changed its annual meeting to precede the Academy of Management annual meeting, although it still had sessions in conjunction with the American Philosophical Association. The SBE continues to be the dominant academic venue for business ethics. In 1991 it started the *Business Ethics Quarterly* with Patricia Werhane as Editor.

Conferences began to take place more and more often on various topics and issues in business ethics. The Bentley Center for Business Ethics was established in 1976 and continues to flourish. Other centers of business ethics started appearing at various universities, and journals dedicated to the field emerged. At least a dozen other centers sprang up within a space of ten years. The *Journal of Business Ethics* appeared in 1982. Other journals in business ethics followed. In 1987 Henk van Luijk and Georges Enderle were instrumental in founding the European Business Ethics Network (EBEN), which stimulated the growth of national societies in Europe and the development of business ethics in many of the European countries.¹⁰ By 2011 EBEN had linked together 17 national networks.

The International Society for Business, Ethics and Society, which was founded in 1988, helped to promote the growth of business ethics in countries around the world. Its first meeting was held in 1992 and the first World Congress of Business, Economics and Ethics was held in Japan in 1996. Other World Congresses followed in São Paulo (2000), Melbourne (2004), Cape Town (2008), and Warsaw (2012). The Japan Society for Business Ethics (JABES) was inaugurated in 1993, and the 1996 World Congress led to the establishment of societies for business ethics in Latin America and to the Latin-American Business Ethics Network (ALENE) in 1997; to the Business Ethics Network of Africa in 2000, which includes

¹⁰ For more on the history, meetings, and membership in EBEN, see <http://www.eben-net.org>.

members from 22 countries; to the Australian Business Ethics Network, and to societies for business ethics in India, China and other parts of the world.¹¹ The first issue of *Business Ethics: A European Review* was published in 1992. By the turn of the century business ethics as an academic field was firmly entrenched internationally. It had proved not to be a passing fad, as some had predicted.

Business ethics has developed and expanded as business has developed and expanded. In 1989 Thomas Donaldson published the first book on international business ethics, followed by one by Richard De George (1993). Both reflected the reality that business had become international and that such a development raised new issues that had to be addressed and to which there were no intuitive or easy solutions. The globalization of business was the next step, and the computer, the digital revolution, and the rise of information technology further changed business and raised new ethical issues of privacy and intellectual property, among others.¹²

In 1984 R. Edward Freeman published a book which called for a reconceptualization of the corporation and which became influential in both business ethics and in the vocabulary used by businesses in describing their activities. In the United States, corporations have a legal obligation to manage for the benefit of their shareholders. This has sometimes been interpreted by some corporations and commentators to mean that shareholders always take priority over others, whose interest may legally be considered secondary. This is the shareholder view of the corporation. Freeman argues that corporations have obligations to all of its stakeholders—its shareholders, its employees, its suppliers, its customers, and all others who have a stake in the corporation. The reinterpretation does not change the ethical obligations of corporations,

¹¹ For more information on ISBEE, see <http://www.globethics.net/web/guest/about-isbee>.

¹² See, for instance, De George (2003).

but it does make it easier to argue that sometimes other stakeholders take precedence over shareholder interests.¹³

By the turn of the century business ethics as an academic field had begun to move into its mature stage. But as it developed in the United States, the empirical branch slowly grew in size in comparison with the philosophical branch. Many of the philosophers who were especially active in starting the field moved into distinguished chairs in business schools, usually in departments of management. The philosophers, who originally dominated the Society for Business Ethics, slowly gave way to empiricists in the social sciences. The number of normatively-oriented articles accordingly gave way to those of an empirical cast, and the range of articles in business ethics narrowed, so that the great majority were in management ethics rather than marketing, finance, human relations, or other areas of business. The Exxon, WorldCom and other scandals at the turn of the century led to a spate of books and articles on corporate governance, and the financial crisis of 2007–2008 led some to look into the ethics of the financial industry. Beyond the borders of the United States some took the financial crisis to be a crisis of the legitimacy of capitalism, and at least some analysed the ethical justifiability of finance capitalism. The United States maintained dominance in the field of business ethics, but centers appeared in many countries in Europe, Asia, South America, Australia, and Africa.

In the United States the rapidly developing field had some impact on business. But the third strand of business ethics—the incorporation of ethics, or at least the trappings of ethics, into businesses in the United States on a large scale—was given the greatest impetus by government legislation. The two branches that became dominant were the corporate

¹³ For more on stakeholder analysis, see Freeman (1984), and Goodpaster (1991). Despite its wide acceptance, the theory has a number of critics. For a more recent defense, see Freeman and Phillips (2002).

ethics branch and the corporate social responsibility branch. The two are often divided within the same company. Prior to government legislation, some individual companies, such as Johnson & Johnson,¹⁴ had on their own adopted codes and incorporated ethics into their structures. Similarly, individual corporations and industries had reacted to public pressure in a variety of ways. For instance, in 1978 General Motors and other United States corporations operating in South Africa adopted what were known as the Sullivan Principles. They agreed not to obey the discriminatory and oppressive apartheid laws in South Africa and in other ways—including lobbying the South African government—to attempt to undermine or help end apartheid. In 1984, after the Union Carbide disaster at its plant in Bhopal, India, which killed thousands and injured several hundred thousand people, the chemical industry adopted a voluntary code called Responsible Care.

The first governmental impetus came in 1977 with the passage of the United States Foreign Corrupt Practices Act. This prohibited United States firms from making payments to high-level government officials of foreign countries in order to obtain contracts or special favors. It was not until 20 years later that the OECD countries adopted similar legislation. The second impetus was the Defense Industry Initiative (DII) on Business Ethics and Conduct (1986). This was an initiative by defense contractors in response to a series of irregularities in contracts with the United States government. The signatories (initially 30, and eventually 50) agreed to have a code of conduct, to establish ethics-training programs for employees and to develop monitoring mechanisms to detect improper behavior. This became the model for the United States Federal Sentencing Guidelines for Corporations (1991), which added a carrot to the stick of federal legislation. It gave corporations a large financial incentive to

¹⁴ The Johnson & Johnson Credo dates back to 1943. See <http://www.jnj.com/connect/about-jnj/jnj-credo>.

appoint a corporate ethics officer, to institute an ethics-training program for all employees, and to develop, adopt and enforce a code of conduct. If they did so, and the firm or one of its employees was found guilty of defrauding the government in any way, the fine imposed could be reduced by up to 96% of the maximum fine of US\$290 million. Integrating ethics into the corporation became cost effective and no longer an expensive add-on of perhaps dubious value. The fourth government impetus came with the United States Sarbanes-Oxley Act (2002), enacted in the wake of the Enron and associated scandals involving corporate governance.

As a result of legislation, corporations were faced with the new task of establishing a corporate-ethics officer position and introducing codes and mechanisms for monitoring and enforcing the codes. For many corporations—although not for all—this was new and unfamiliar territory. One result was the creation of the Ethics Officer Association in 1992, which became the Ethics and Compliance Officer Association (ECO) in 2005. The association provided a network and a forum for members to exchange ideas and strategies on ethics and on legal compliance. Although it started with 19 United States corporations and is headquartered in the United States, by 2011 it had 1,200 members in over 30 countries.¹⁵ The overall result was the incorporation of ethics in some form as part of the structure of many companies.

At the same time, in various ways and venues companies came under increasing pressure from NGOs and the general public to become good “corporate citizens” or to engage in Triple Bottom Line (economic, environmental and social) accounting and in other ways to turn their attention to Corporate Social Responsibility (CSR) with respect to the communities within which they operated. This became the second branch of the ethics-in-business strand of business ethics.

¹⁵ For more information on the ECOA see <http://www.theecoa.org/iMIS15/ECOAPublic>.

CSR has become something that corporations can no longer ignore and still maintain a positive public image. The emphasis on CSR, however, in some instances has become equated with business ethics, even though only some of a corporation's social obligations are ethical. (Others are legal or simply a response to the desires of vocal lobbying or other groups, and corporations also have many ethical obligations not included under CSR.) Many corporations have two officers and two offices: one the CSR which handles external obligations and one internal—a corporate ethics office—which handles internal ethical training and issues. Corporations can have exemplary CSR programs and be ethically deficient in other areas of their operations, as the case of Enron demonstrated.

Many multinational companies have adopted codes that cover their practices throughout the world and/or have signed on to abiding by sets of principles such as the Caux Principles¹⁶ or the principles contained in the UN Global Compact. The Global Compact contains ten principles dealing with human rights, labor standards, the environment and corruption. By signing on, corporations commit themselves to abiding by the principles and determining how best to implement them. The initiative has grown to more than 8,000 participants, including over 5,300 businesses in 130 countries around the world, and embraces six UN agencies. In 2011 the UN Human Rights Council endorsed a set of Guiding Principles for Business and Human Rights which sets a global standard with respect to human rights and business activity.¹⁷ The Global Compact encourages the creation of local networks on national and regional levels to share information, develop appropriate means of implementing the principles, and encourage other companies to join. The Compact is compatible with other codes and is ultimately based on self-regulation.

¹⁶ The Caux Principles were formulated in 1995 by a group of Japanese, European and American firms that met in Caux, Switzerland. For details of the principles and their implementation, see <http://www.cauxroundtable.org>.

¹⁷ For the Principles, see <http://ohchr.org/documents/issues/business/A.HRC.17.31.pdf>.

Self-regulation, moreover, is not necessarily antithetical to governmental regulation, and the two are most effective when they work together, e.g., to abolish oppressive child labor.

Although the UN Global Compact identifies itself with corporate citizenship, it encompasses aspects of both CSR and business ethics, insofar as it places great emphasis on respecting human rights.

CSR has become something that corporations can no longer ignore and still maintain a positive public image

The way CSR plays out in most European countries, in which the government has a larger role than in the United States, varies as do the issues that business ethics addresses. Labor typically has a larger say in European corporations than it does in the United States, and many labor rights that are negotiated in the United States are legislated in Europe. The safety nets in place are also different. In other parts of the world the same is true, and issues in developing countries are different from those in developed countries. Although widely accepted, CSR is a somewhat nebulous concept and is often adopted by companies in response to external criticism, without any overarching framework or set of values. In the case of multinational or transnational corporations there is also ambiguity about whether the social responsibilities of a corporation reflect the demands of the society in which it has its home office or of the societies in which it operates. The ethical component of CSR is determined in all cases by ethical norms and not simply by the demands of vested interest groups.

The globalization of business has brought with it the globalization of business ethics in all three of its strands. Although the emphasis is still primarily on business ethics in each nation or region, with some of the

literature devoted to cross-cultural or cross-national comparisons, the true globalization of business ethics is still in its infancy. There is some attention to global issues, such as global warming. But the battles are fought in national and regional political venues.

What has become clear over the past 40 years is that all three strands of business ethics are interrelated. Sometimes the progression is from the academic business-ethics literature to a rising public consciousness as publicists and activists seize the idea to exert public pressure that spurs corporate activity. At other times academic business ethics follows public sentiment or reacts to business practices. What has also become clear, however, is that business ethics by itself is insufficient to level the business playing field for the benefit of all. Academic criticism, public protests, self-policing and corporate or industry codes can go only so far. At some point, governmental legislation is required. Legislation, however, is national or local. There is no effective international legislation that matches the globalization of business, and corruption on the governmental level impedes the growth of business ethics on the local level in many countries. Even some of the OECD countries have been lax, for example, in implementing and enforcing national legislation prohibiting bribery of foreign governments.¹⁸

Nonetheless, by 2011 business ethics was no longer considered an oxymoron. The public in many countries is more conscious of ethical issues in business than it was 40 years earlier; the academic field of business ethics, although continuing to develop, has matured and is no longer struggling to establish itself; and the business community has at least started seeing ethics and ethical demands as part of the package it has to manage and internalize.

¹⁸ See, for example, the Transparency Corruption Perception Index http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results.

BIBLIOGRAPHY

- Aquinas, St. Thomas, *Summa Theologica*.
- Aristotle, *Nicomachean Ethics*.
- Aristotle, *Politics*.
- Barnet, Richard J. 1974. *Global Reach: The Power of Multinational Corporations*. New York: Simon and Schuster.
- Barry, Vincent (ed.). 1979. *Moral Issues in Business*. Belmont, CA: Wadsworth.
- Beauchamp, Tom and Norman Bowie (eds.). 1979. *Ethical Theory and Business*. Englewood Cliffs, NJ: Prentice Hall.
- Bible*. New Revised Standard Version. 1989. Division of Christian Education of the National Council of Churches of Christ in the United States.
- Bowie, Norman. 1966. "Business Ethics." In *New Directions in Ethics*, edited by Joseph P. De Marco and Richard M. Fox. New York: Routledge and Kegan Paul.
- De George, Richard T. 1982. *Business Ethics*. New York, London: Macmillan, Collier.
- De George, Richard T. 1993. *Competing with Integrity in International Business*. New York: Oxford University Press.
- De George, Richard T. 2003. *The Ethics of Information Technology and Business*. Oxford: Blackwell Publishing.
- De George, Richard T., and Joseph A. Pichler (eds.). 1978. *Ethics, Free Enterprise and Public Policy: Original Essays on Moral Issues in Business*. New York: Oxford University Press.
- Donaldson, Thomas. 1991. *The Ethics of International Business*. New York: Oxford University Press.
- Donaldson, Thomas, and Patricia Werhane (eds.) 1979. *Ethical Issues in Business: A Philosophical Approach*. Englewood Cliffs, NJ: Prentice Hall.
- Drucker, Peter F. 1981. "What is 'Business Ethics'?" *The Public Interest* 63: 18–36.
- Freeman, R. Edward. 1984. *Strategic Management: A Stakeholder Analysis*. Boston: Pittman.
- Freeman, R. Edward and Robert A. Phillips. 2002. "Stakeholder Theory: A Libertarian Defense," *Business Ethics Quarterly* 12: 331–349.
- Gentile, Mary C. 2010. *Giving Voice to Values: How to Speak Your Mind When You Know What Is Right*. New Haven: Yale University Press.
- Goodpaster, Kenneth. 1991. "Business Ethics and Stakeholder Analysis." *Business Ethics Quarterly* 1: 53–72.
- Hoffman, Michael, and Jennifer Moore, 1962. "What Is Business Ethics? A Reply to Peter Drucker," *Journal of Business Ethics* (1): 293–300.
- John Paul II, Pope. 1981. *Laborem exercens*. Washington, DC: Office of Publishing and Promotion Services, US Catholic Conference.
- John Paul II, Pope. 1991. *Centesimus annus: On the hundredth anniversary of Rerum Novarum*. Washington, DC: Office of Publishing and Promotion Services, US Catholic Conference.
- Leo XIII, Pope. 1891. *Rerum novarum*.
- Locke, John. 1690. *Second Treatise: An Essay Concerning the True End of Civil Government*.

- Mele, Domenec. 2006. "Religious Foundations of Business Ethics." In *The Accountable Corporation: Business Ethics* V. 2, 11–43. edited by Marc J. Epstein and Kirk O. Hanson. Westport, CN: Praeger Perspectives.
- National Conference of Catholic Bishops. 1986. *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the US Economy*. Washington, DC: US Catholic Conference.
- Stackhouse, Max L., Dennis P. McCann and Shirley J. Roels (eds.) with Preston N. Williams. 1995. *On Moral Business: Classical and Contemporary Resources for Ethics in Economic Life*. Grand Rapids, MI: William B. Eerdmans Publishing Company.
- Treviño, Linda K., G. R. Weaver and S. J. Reynolds. 2006. "Behavioral Ethics in Organizations: A Review." *Journal of Management* 32 (6): 951–990.
- Treviño, Linda K. and Katherine A. Nelson. 2011. *Managing Business Ethics: Straight Talk About How to Do It Right*. Hoboken, NJ: John Wiley & Sons, Inc.
- Velasquez, M. G. 1982. *Business Ethics: Concepts and Cases*. Englewood Cliffs, NJ: Prentice Hall.
- Weber, Max. 1970. *Protestant Ethic and the Spirit of Capitalism*. New York: Scribner.

>> The notion of ethics in business can be traced back to the earliest forms of bartering, based on the principle of equal exchange. Countless philosophers and economists have examined the topic, from Aristotle and his concept of justice to Karl Marx's attack on capitalism. But the modern concept of business ethics dates back to the rise of anti-big business protest groups in the United States in the 1970s. The subject gradually became an academic field in its own right, with both philosophical and empirical branches. Then, thanks to government legislation, ethics have been incorporated into businesses, reflected today in corporate social responsibility strategies and codes of conduct. Business ethics is now not only a firmly established academic field, it is something companies realize they need to manage and internalize.

RICHARD T. DE GEORGE

University of Kansas

STAKEHOLDER MANAGEMENT AND REPUTATION

R. Edward Freeman

INTRODUCTION

The purpose of this paper is to connect two fairly recent concepts in management theory and practice: stakeholder management and reputation. What are the effects of good stakeholder management on the reputation of a business, and does a company's reputation affect its ability to engage with its key stakeholders? The paper begins with a brief history of the concepts of stakeholder management and reputation. In section three the main interpretations of stakeholder management and its connection to reputation are distinguished. It is then suggested that a new narrative about business is badly needed, in light of the changes that have taken place in the last generation of business models. Section four suggests that momentum is building for a fourth interpretation that offers a more useful idea for businesses in the 21st century. This fourth interpretation is built on the relatively recent idea of "value-creation stakeholder management" and focuses on seeing reputation as an integral part of any viable business model. The final section five outlines some challenges for business executives and researchers.

The idea of “stakeholders” first appeared in the work of the Stanford Research Institute (SRI) in the 1960s as they began to try to systematically give executives a way of understanding the changes in the business environment. ‘Stakeholders’ were defined by SRI as “those groups without whose support the organization would cease to exist.”¹

In the ensuing 20 years, a number of researchers began to experiment with the idea as they began to develop more robust views of strategic planning, and later “strategic management.” A group of researchers centered at the Wharton School in the late 1970s and early 1980s developed a more action-oriented view of “stakeholders” and called it “stakeholder management.” This group defined “stakeholders” as “any group or individual who can affect or be affected by the achievement of an organization’s objectives.” These researchers believed that in a fast-changing business environment, executives had to pay much more attention to external forces and pressures, and that strategic action required a more sophisticated version of dealing with customers, suppliers, employees, financiers, communities, society, interest groups, media, and the like. Freeman (1984) was an advocate of this view of stakeholder management.

The central principles or elements of the argument were as follows:²

1. “No matter what you stand for, no matter what your ultimate purpose is, you must take into account the effects of your actions on others, as well as their potential effects on you.” This principle is one of simple

¹ For a more nuanced history of the idea see Freeman et al. (2010, Chapter 2).

² The following paragraphs draw from Freeman et al. (2010, Chapter 2). We are grateful to Cambridge University Press for permission to recast the ideas here. For the record, I believe that most of these principles are still correct.

“common sense” that needed to be applied systematically in the business context.

2. “You have to understand stakeholder behaviors, values, and backgrounds/contexts including the societal context.” Once again this is a principle of extraordinary simplicity. You don’t have to agree with stakeholders or their behavior, but good management does require understanding it.
3. “To be successful over time it will be better to have a clear answer to the question of what do we stand for.” Freeman (1984) suggested that this question of purpose be called “enterprise strategy,” however it was not widely agreed upon, since the entire business world became enamored of the idea that the purpose of a business was to maximize profits.
4. “Stakeholder relationships work at three levels of analysis: the Rational or “organization as a whole;” the Process, or standard operating procedures; and the Transactional, or day-to-day bargaining.” Much literature in strategy has been based on what historians would call a “kings and battles” approach. It is IBM vs. NEC or Google vs. Microsoft. In reality, it is sometimes more useful to think about processes and transactions.
5. “Companies need to use the stakeholder idea to think through new structures, processes, and business functions.” Stakeholder relationships become the “unit of analysis” in organizational design.
6. “Stakeholder interests need to be balanced over time.” While the metaphor of “balance” can give the idea of making trade-offs among groups, its original connotation was one of harmony. This was not well understood in the stakeholder literature until Freeman, Harrison and Wicks (2007).

There are a number of implications of this argument. If it is correct, then the idea of “corporate social responsibility” is probably superfluous. Since stakeholders are defined widely and their concerns are integrated into the

business processes, there is simply no need for a separate CSR approach. Social-Issues Management or “issue” is simply the wrong unit of analysis. Groups and individuals behave, not issues. Issues emerge through the behavior and interactions of stakeholders, therefore “stakeholders” is a more fundamental and useful unit of analysis. Finally, the major implication of this argument, which cannot be overemphasized today given the development of stakeholder theory, is that “stakeholders are about the business, and the business is about the stakeholders.”

Stakeholders is defined as any group or individual who can affect or be affected by the achievement of an organization’s objectives

At some level business executives have always been concerned about their reputation. The simple truth is that if a buyer does not believe that what a seller is offering is genuine, there is no deal. And, likewise, if a seller does not believe that a buyer actually is going to pay or trade, then there is no deal. If a buyer or seller gets the reputation of always giving less than agreed to, it becomes difficult to close transactions. And, this has been a fact since the emergence of the first markets. Concern with reputation is as old as business itself. Trading in traditional villages depended on reputation where sanctions could be applied, since everyone knew everyone else (McMillan 2002). As trade flourished between villages, and between cities, sanctions were harder to apply, as some traders could take the money and run. However, they could never return to trade again. To sustain value-creation over time, a good reputation is necessary for any business, and for any businessperson.

The rise of corporate philanthropy in the early days of the Industrial Revolution can be partially explained by the fact that the early industrialists were at least concerned with their personal reputations.

Andrew Carnegie (1889) suggested that business people should hold excess profits in trust for society. He said,

This, then, is held to be the duty of the man of Wealth: First, to set an example of modest, unostentatious living, shunning display or extravagance; to provide moderately for the legitimate wants of those dependent upon him; and after doing so to consider all surplus revenues which come to him simply as trust funds, which he is called upon to administer, and strictly bound as a matter of duty to administer in the manner which, in his judgment, is best calculated to produce the most beneficial result for the community—the man of wealth thus becoming the sole agent and trustee for his poorer brethren, bringing to their service his superior wisdom, experience, and ability to administer—doing for them better than they would or could do for themselves.

This view of corporate philanthropy has been carried forward to the modern day, with Bill Gates seeking to give away a great deal of his fortune to help those less fortunate. The Bill and Melinda Gates Foundation has enlisted a number of billionaires in the world at large to support their principles. Their guiding principle #14 is connected to Carnegie's earlier articulation of what has come to be known as philanthrocapitalism. The foundation says,³

Meeting our mission—to increase opportunity and equity for those most in need—requires great stewardship of the money we have available.

³ <http://www.gatesfoundation.org/about/Pages/guiding-principles.aspx> (accessed August 2011)

While corporate philanthropy continues to be important, it was not enough to build a company's reputation through philanthropy. Often philanthropy happened after a company was already subject to criticism for its actions. In the early part of the 20th Century we see the emergence of public relations as a discipline to begin to manage the reputation of a business as it grew and developed. In the United States Edward Bernays and Ivy Lee are often seen as the founders of public relations. Perhaps one of the most famous internal public-relations executives was Arthur Page of the Bell Telephone Company who is recognized as the first person to hold a high executive office as a public relations executive. Page's principles for public relations are inscribed in the Arthur Page Society today, a society for senior PR executives:⁴

1. Tell the truth.
2. Prove it with action.
3. Listen to the customer.
4. Manage for tomorrow.
5. Conduct public relations as if the whole company depends on it.
6. Realize that a company's true character is expressed by its people.
7. Remain calm, patient and good humored.

In more modern times, the idea of reputation has become more generalized, and it has come to mean the perceptions that key stakeholders have of the actions of a particular business. Many scholars argue that reputation is a key resource of a firm, that it helps attract investors, customers and employees, and can create competitive advantage (Fombrun and Van Riel 2004). Since reputation is seen as a "soft" concept, there is much concern with showing that paying attention to reputation "pays off." There are numerous studies that suggest that having a good reputation ultimately returns profits to shareholders, making what has come to be called "the business case" for reputation

⁴ http://www.awpagesociety.com/site/about/page_principles/.

management. Making the business case for reputation management points out the underlying flaws in the model of “business,” which the evolution of stakeholder theory has begun to correct.

THE EVOLUTION OF STAKEHOLDER MANAGEMENT AND REPUTATION

Since the early days when the stakeholder idea was used as an organizing principle in strategic planning, stakeholder management, or as it is commonly known, “stakeholder theory,” has developed along a number of dimensions: as a strategic tool; as a corporate communications idea; and as a way of thinking about corporate social responsibility. All three have evolved separate academic and practitioner literatures.

The use of the stakeholder idea in strategic management has continued to evolve. While Freeman (1984) and others suggested a path for strategic management as a field to take if it was to be stakeholder oriented, in fact the field adopted a view of strategy that has come to be known as “the resource-based view” and it is only recently that these two views have been reconciled (Sachs and Ruhli 2011). However, many companies actually adopted some version of the stakeholder idea in their strategic planning and strategic-management processes.

As in the emergence of the reputation concept there was much concern over making “the business case” for stakeholder management. In an early study Preston and Sapienza (1990) connected data about reputation from the Fortune index to financial performance. The reputation index was identified with “good stakeholder management” and then correlated with financial returns. They found positive support looking at ten-year composite returns. Other studies have suggested a variety of nuances here.⁵

⁵ For a complete list of these studies see Freeman et al. (2010, Chapter 4).

While Freeman's (1984) view of stakeholder management held that it was most useful as a strategic tool, much of the academic world, as well as the world of managerial practice, adopted it as a more fine-grained view of corporate communications. Fombrun (1996) suggests several multi-stakeholder models that have been developed around corporate communications and public relations. Welch and Jackson (2007) outline a stakeholder approach to internal communications within a business. And, a number of public relations textbooks began to organize around the stakeholder idea as well as the idea that public relations was better understood as "how to engage stakeholders."

There are numerous studies that suggest that having a good reputation ultimately returns profits to shareholders, making what has come to be called "the business case" for reputation management

Another development was the emergence of the stakeholder idea as a key force in understanding corporate social responsibility (CSR). As the movement to demand more responsibility of companies gathered steam, more scholars began to see stakeholder management as central in the development of CSR. Wood's (1991) important article set the tone for CSR scholars to take stakeholder management seriously as more integrative of how to deal with the external environment in a responsible way. Ironically, Freeman (1984) suggests that if stakeholder management is seen as an integrative business model, then CSR may well be a superfluous idea. Similarly one of the main arguments for reputation management linked the idea to CSR. If a company is seen as responsible, then it gains more trust from its stakeholders, and ultimately improves its business.

As these two ideas developed in an intertwined way, it is easy to see how they are connected in terms of the evolution of the fields of strategic

management, corporate communications, and CSR. A more recent development in stakeholder theory, however, points out shortcomings in this earlier work, and the need to develop a new theory about business.

VALUE-CREATION STAKEHOLDER MANAGEMENT

The recent global financial crisis has called much of our common wisdom into question. Perhaps the biggest challenge is to our very idea of how to think about business. The dominant story about capitalism has been for some time that business is primarily about making money. The participants in business are seen as self-interested and extremely opportunistic. The only legitimate purpose of a business, in this view is to maximize profits for shareholders. This traditional view sharply distinguishes between “business” on the one hand, and “ethics” on the other—so much so that the phrase “business ethics” often elicits a laugh or a comment of “that’s an oxymoron.”

Freeman (1994) and Harris and Freeman (2008) have suggested that an appeal to such a “separation fallacy” is fraught with difficulty. As we have seen in the development of both stakeholder theory and the idea of reputation, if the “business case” is separated from the ethical nature of what a company is doing, we will need concepts like “corporate philanthropy” or “corporate social responsibility” to make amends for any damage done by the business. Such a separation assumes that we can clearly divide the consequences of a business into two disjunctive sets: the economic consequences, and the social (or ethical) consequences. However, simple examples point out the folly of such a logical division. If a company hires an employee, clearly there are economic consequences, but just as clearly there are social consequences. Similarly, selling products and services have clear economic consequences, and even clearer social consequences. Trying to “prove” that doing good things

socially or ethically can lead to good economic consequences is thus a fool's errand. It is impossible to divide up consequences into "economic" and "social." It is far better to adopt "stakeholder" as a unit of analysis, and to admit that stakeholder relationships are complex. All include economic, political, social, ethical, and other factors. Manage the stakeholder relationships and the "business case" takes care of itself.

Of course, one response is to ask what could "the business case" be other than how a company creates value for its key stakeholders, and it is here that stakeholder theory suggests we begin. What has come to be called "Value-Creation Stakeholder Management" (VCSM) is based on a number of principles that taken together begin the construction of a new narrative about business.

The first principle is that businesses are successful (or fail) because they create (or destroy) value for at least customers, suppliers, employees, communities and financiers (shareholders, etc.). And, this has always been the case (Freeman, 2011). One of the major features of most thinking about business, among academics, is that they assume that "markets" are the dominant business metaphor. Complex economic models are developed to explain the behavior of self-interested firms in highly competitive situations. And, while "markets" are one metaphor to use in understanding how real businesses work, they aren't the only one. Companies create real value for customers and other stakeholders. Assuming that the only value created is economic value for shareholders is simply no longer useful. Even avowed financial markets experts such as Henry Kravis, co-founder of Kohlberg, Kravis Roberts and Co. (KKR) the buyout experts said recently (Primack 2008):

You have to focus on all the stakeholders. It's a new thing for us and something we're really hammering. Long-term value is only achieved if growth benefits all stakeholders in a company, from

owners to employees, communities and even governments. We are also conscious we are fiduciaries to millions of hard-working men and women and university endowments ... Trust must be earned over the long haul and maintained constantly. We have not always adequately explained what we do to the man on the street. Even some of our investors, although happy with the returns we deliver, don't fully understand what we do and why they should invest with us.

The second principle is that most human beings are fairly complex creatures. While it should not be necessary to state this principle so explicitly, in fact the assumption of "rational self-interest" has a real grip on the hearts and minds of business people and business thinkers. Of course, human beings are self-interested, but they also care for others, as every parent knows. Most of the time we are motivated by a mixture of self-interest and interest in others. This second principle suggests that ethics and responsibility are always a part of what we need to think about in business. Focusing solely on narrow ideas of self-interest can detract from our very humanity.

The third principle of VCSM says that customers, suppliers, employees, communities, and financiers have a joint stake in the business. Their interests go roughly in the same direction. Much of the early strategic research and CSR research in stakeholder theory has spent time trying to elucidate how trade-offs among stakeholders are to be made. VCSM suggests that the key to understanding a business is figuring out how to create value for all key stakeholders simultaneously. How does a new product or service, which creates value for customers, also create value for communities, suppliers, employees and financiers? Of course in the real world trade-offs sometimes have to be made, but VCSM suggests that the next question after a trade-off is how to improve the trade-off for all sides. Great companies keep stakeholder interests in harmony over time.

If one stakeholder is constantly denied a part of the value-creation process, then either that stakeholder leaves the business to find another, or uses the political process to appropriate value. Neither outcome is good for business. As former CEO of Medtronic, Bill George (2003, 104) put it quite eloquently,

Serving all your stakeholders is the best way to produce long-term results and create a growing, prosperous company ... Let me be very clear about this: there is no conflict between serving all your stakeholders and providing excellent returns for shareholders. In the long term it is impossible to have one without the other. However, serving all these stakeholder groups requires discipline, vision, and committed leadership.

If a company is seen as responsible, then it gains more trust from its stakeholders, and ultimately improves its business

The fourth principle is that businesses are sustainable over time if they have a purpose. This purpose must appeal to customers, suppliers, employees, communities, and financiers. Usually, maximizing profits is more usefully thought of as an outcome, rather than a purpose. In a similar manner, humans need red blood cells to live, but the purpose of life is not to make red blood cells. Of course VCSM does not deny that profits are important, but they are a result. As Jack Welch, former CEO of General Electric (GE) told the *Financial Times* (Guerrera 2009):

On the face of it, shareholder value is the dumbest idea in the world ... Shareholder value is a result, not a strategy ... Your main constituencies are your employees, your customers and your products.”

When these principles are taken together we have the foundations of a new model of capitalism, or a new narrative about business. VCSM offers a way to solve three of the main challenges to business. First of all we need to understand how value-creation and trade can be sustained over time in a rapidly changing global business environment. VCSM suggests that taking “stakeholders” as the unit of analysis is a good start. Further it suggests that focusing on satisfying multiple stakeholder interests simultaneously creates business models that are closely aligned with stakeholders, and that are sustainable.

Second we need to address the issue of the ethics of capitalism, as it has come under increasing attack due to recent scandals and the global financial crisis. Ethics and responsibility can’t be seen as an “add-on” but they must be intimately connected in the business model. By seeing stakeholders as human beings, who are complex in their own right, we begin the process of putting ethics and responsibility into the very center of our way of thinking about business.

Finally we need to address the issue of what to teach in business schools. The rise of the MBA, world-wide, has resulted in the spreading of a view of business that is centered on economics and finance. While these are important disciplines, they are incomplete. Business is a deeply human activity, requiring insights and theories from all the human sciences, from economics to the creative arts. Seeing capitalism as a cooperative system of value-creation for stakeholders opens many doors to disciplines and key ideas that have stayed on the sidelines for too long.

Where is the idea of reputation in this new stakeholder narrative about business? VCSM suggests that reputation is a function of the underlying business model. Reputation is managed by paying attention to the basics of the underlying model. Companies which adopt a business model of creating value for customers, employees, suppliers, communities, and

financiers will see their reputations grow or diminish according to how they engage these stakeholders, and how they create value for them. Of course, executives have to pay attention to perception, increased role of media and social media in the 24/7/365 news cycle, new and powerful technologies, and a growing diverse workforce. Yet the easiest way to be perceived as an X is to be an X. At least authenticity is where executives must start. In VCSM reputation is a function of purpose and identity, of what a business stands for, what its values and principles are, and how it engages others. These questions are at the very center of VCSM. Let's consider the following examples.⁶

For many years company ABC ignored some of the harmful effects of its products. ABC was exceptionally profitable, but as the science surrounding its products progressed, increasing concern was expressed about their use over time. After years of focusing on creating value for shareholders, ABC began to be more stakeholder-focused. Initially, this concern was based on a desire to improve its reputation so that profitable growth would continue. Over time some key executives began to see that such a "strategic view" was not enough, even though there were some indications that the company's overall reputation was better than that of its competitors. Consequently there was some conflict within the ranks of the company. ABC went so far as to undertake an extensive campaign on corporate social responsibility. However, without reexamining its purpose and values, ABC was unable to create as much value as it could have otherwise done. Critics of the company often refuse to meet with executives. And the company will be vulnerable to breakthroughs in the industry that mitigate the harmful effects of its products. Strategy and CSR simply aren't enough.

⁶ The following examples are based on the experience of the author with real companies. The companies have been thoroughly disguised.

Company DEF also has critics of its products and services. However, DEF has spent a great deal of time engaging with its critics, as well as with its key stakeholders: customers, employees, communities, suppliers and financiers. DEF is very clear about its principles and values, and, it spends a lot of time and effort in stimulating conversation about these ideas throughout the company. DEF often (not always) listens to its critics and makes improvements to its business processes. It also changes its products and services to give its customers better value. DEF clearly sees itself as creating value for its stakeholders. Of course, it is also quite profitable.

Communities want Company XYZ in their area. Not only do the target-market customers love their products and services, but the company is known as a community builder. The CEO sees stakeholder interests as “synergistic” rather than subject to trade-offs. He also sees employees as “team members” who are in it together with management to serve customers, make suppliers (and their communities) better, and create better communities around the world. Of course, XYZ is also profitable.

These companies are rewriting the story of business, and as ABC shows, it is not an easy task, especially to take an established company that has begun to have fundamental questions asked about its business. In the following section some of the challenges of this new VCSM story will be addressed.

FUTURE CHALLENGES

There are five main challenges to the further development of VCSM and its related idea of reputation. Each is worthy of multiple research programs, and each should bear fruitful inquiry for years to come. The first challenge is to rethink the question of “what is the total performance

of a business?” For too long we have simply assumed that aggregate accounting and finance measures like profit and stock price adequately measure total performance. Accounting systems are conventional and built from the point of view of investors rather than stakeholders. Profits, stock price, free cash flow, and the like are functions of these investor-centric accounting systems. Given our earlier arguments about the impossibility of sorting out economic effects from social effects, progress is not likely to be made by leavening these accounting measures with ideas of “social performance” or even “triple bottom line.” We need new proposals for how to measure all the effects of a business on customers, suppliers, employees and communities, as well as investors and other financiers.

The second challenge is to take seriously the idea that the interests of stakeholders must go in the same direction. Firms exist because stakeholder interests coincide. How can we understand this “intersection of interests”? How can we enhance the integration of stakeholder interests? And, how can we begin to understand how stakeholders reinforce each other’s interests? One of the most important issues is how innovation emerges to meld together a set of interests which might look disparate at first glance. How can Werhane’s (1999) idea of “moral imagination” be used to solve conflicts of interest? What is the role of critics, of purpose, principles and values, as well as stakeholder engagement in the process of value-creation?

The third challenge is how to understand the influence of the growing network of stakeholders who are not customers, employees, suppliers, communities or financiers. In short how do we engage with NGOs, governments, and other third parties who can influence those primary stakeholders? And, how are these groups relevant to the value-creation process? They all surely affect the reputation of a business, but simply trying to ameliorate these effects is not sufficient. Today’s technology is

too powerful. VCSM suggests that behind most of these groups is an idea about how to make a business better, even though these ideas may be masked by difficult criticisms. And, it is not possible for a business to respond to all groups. However, there is value to be created by learning how to craft engagements with these groups, and as public trust in business wanes, the trust in for instance, NGOs seems to grow.

Seeing capitalism as a cooperative system of value-creation for stakeholders opens many doors to disciplines and key ideas that have stayed on the sidelines for too long

The fourth challenge is to figure out what we teach in business education. If the main premises of this paper are correct, there is much to be changed. Seeing capitalism as a system of social cooperation, where value is created for stakeholders, is a sea change in the story of business as it is told in business schools. Seeing ethics and responsibility as at least as important as profits will require the wholesale rethinking of the disciplines of business. For instance, in marketing we might begin this process by seeing brands as promises and seeing consumers as human beings with names, faces and children. In finance, we need to return to seeing markets as the socially-embedded phenomena that they have always been. In organization studies we need to banish the idea of “human resources” and “human capital,” and replace these with the simply idea of “human beings.” By focusing on stakeholder relationships, and by using “thick” moral concepts to amplify traditional business ones, we can and must build a better business theory to teach the next generation.

The final challenge, and perhaps the hardest one of all, is to change the narrative about business in society at large. How can we come to see businesses (and expect them) to be fully embedded in a societal context?

There is too much rhetoric about “free markets” and too little rhetoric about value-creation (except for investors and other Wall Street entities). If we continue to divorce Wall Street from Main Street, we can expect a populist revolt that may harm the very idea of capitalism as free people cooperating together to create value for each other. Of course in a free society there is healthy competition as everyone has options. However, the narrow interpretation of the old story of capitalism as only about money, “free markets set outside of a societal context,” greed, and competition, has surely run its course. We need a view of capitalism that recognizes that: 1. purpose and profits go together; 2. reputation is a function of a business model that creates value for stakeholders; 3. human beings are complex and not solely self-interested; 4. cooperative value-creation and healthy competition are two sides of the same coin; and, 5. business is a complex societal institution full of morally complex human beings creating value and trading with each other. There is a great deal of work to be done.

BIBLIOGRAPHY

- Carnegie, Andrew. 1889. "Wealth." *North American Review* 148 (391): 653–665.
- Fombrun, Charles J. 2006. *Reputation*. Cambridge: Harvard Business School Press.
- Fombrun, Charles J., and Cees B. M. Van Riel. 2004. *Fame and Fortune: How Successful Companies Build Winning Reputations*. New York: FT Prentice Hall.
- Freeman, R. Edward. 1984. *Strategic Management: A Stakeholder Approach*. Boston: Pitman Publishing Inc. Reprinted in 2010 by Cambridge University Press.
- Freeman, R. Edward. 1994. "The Politics of Stakeholder Theory: Some Future Directions." *Business Ethics Quarterly* 4 (4): 409–421.
- Freeman, R. Edward. 2011. "Some Thoughts on the Development of Stakeholder Theory." In *Stakeholder Theory: Impact and Prospects*, edited by Robert A. Phillips, 212–233. Cheltenham: Edward Elgar.
- Freeman, R. Edward, Jeffrey S. Harrison and Andrew C. Wicks. 2007. *Managing for Stakeholders*. New Haven: Yale University Press.
- Freeman, R. Edward, Jeffrey S. Harrison, Andrew C. Wicks, Bidhan L. Parmar and Simone De Colle. 2010. *Stakeholder Theory: The State of the Art*. Cambridge: Cambridge University Press.
- George, Bill. 2003. *Authentic Leadership*. San Francisco: Jossey-Bass.
- Guerrera, Francesco. 2009. "Welch Condemns Share Price Focus." *Financial Times*. Accessed August 2011. <http://www.ft.com/intl/cms/s/0/294ff1f2-0f27-11de-ba10-0000779fd2ac.html#axzz1WWQxsecY>.
- Harris, Jared, and R. Edward Freeman. 2008. "The Impossibility of the Separation Thesis." *Business Ethics Quarterly* 18 (4): 541–548.
- McMillan, John. 2002. *Reinventing the Bazaar: A Natural History of Markets*. New York: W.W. Norton, Inc.
- Primack, Dan. 2008. *PE Week Wire*, October 17.
- Preston, L., and H. J. Sapienza. 1990. "Stakeholder Management and Corporate Performance." *Journal of Behavioral Economics* 19 (4): 361–375.
- Sachs, Sybille, and Edwin Ruhli. 2011. *Stakeholders Matter: A New Paradigm for Strategy in Society*. Cambridge: Cambridge University Press.
- Welch, Mary, and Paul R. Jackson. 2007. "Rethinking Internal Communication: a Stakeholder Approach." *Corporate Communications: An International Journal* 12 (2): 177–198.
- Werhane, Patricia H. 1999. *Moral Imagination and Managerial Decision-Making*. New York: Oxford University Press.
- Wood, Donna J. 1991. "Corporate Social Performance Revisited." *Academy of Management Review* 16 (4): 691–718.

>> This paper suggests linkages between recent work in stakeholder management and the idea of reputation. After a brief historical section, the paper suggests that we need a new narrative about how business actually works. Both “stakeholders” and “reputation” are central to this new narrative that is beginning to emerge post-financial crisis. By focusing on how the interests of customers, suppliers, employees, communities, and financiers are joint, executives can begin to see their role as how to create as much value for stakeholders as possible. Stakeholders and reputation become part of the underlying business model, rather than part of add-on ideas like “corporate social responsibility” and “corporate communications.” The paper ends with some challenges to executives and business thinkers as this new model of business is realized.

R. EDWARD FREEMAN

Virginia University

NATIONAL CULTURES, ORGANIZATIONAL CULTURES, AND THE ROLE OF MANAGEMENT

Geert Hofstede

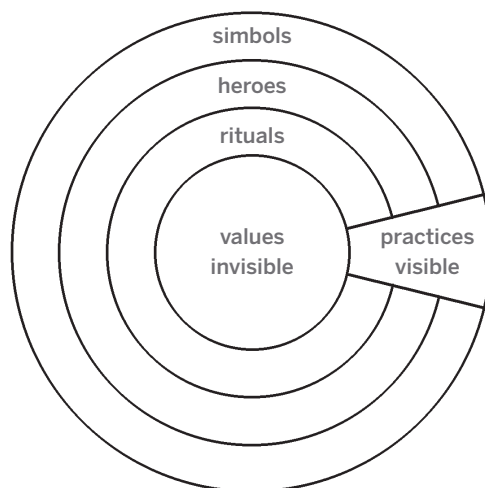
THE CONCEPT OF CULTURE

The word 'culture' has three meanings: Literally it means tilling the soil: cultivation. Metaphorically the word is used for the training or refining of the mind: civilization. However, in the past decades a broader metaphorical meaning has become popular, derived from anthropology: collective ways of acting, thinking, and feeling. 'Culture' in this sense is *"the collective programming of the mind that distinguishes the members of one group or category of people from others"* (Hofstede, Hofstede and Minkov 2010, 6). In the case of national culture, the category is the nation. In the case of organizational cultures, the category is the organization as opposed to other organizations—other things, like nationality, being equal. Next to national and organizational cultures one can distinguish regional cultures, occupational cultures, gender cultures and so on. However, the use of the word 'culture' for all these categories does not mean that they are identical phenomena. For different kinds of social systems, their 'cultures' are usually of a different nature. This is particularly the case for organizational cultures versus national cultures, if only because membership of an organization tends to be partial and more or less voluntary, while the 'membership' of a nation is permanent and usually established at birth.

'Culture' as thus defined is a *construct*, that is, a product of our imagination. We have defined it into existence: "A construct is not directly accessible to observation but inferable from verbal statements and other behaviors and useful in predicting still other observable and measurable verbal and nonverbal behaviors" (Levitin 1973).

Culture as collective programming of the mind manifests itself in several ways. From the many terms used to describe manifestations of culture, the following four together cover the total concept rather neatly: symbols, heroes, rituals and values. These can be imagined as the skins of an onion, symbols representing the most superficial, and values the deepest, layers of culture, with heroes and rituals in between (figure 1).

Figure 1: Layers of mental programming



Symbols are words, gestures, pictures or objects which carry a particular meaning, only recognized as such by those who share the culture. The words in a language or jargon belong to this category, as do dress, hair-do,

Coca-Cola, flags and status symbols. New symbols are easily developed and old ones disappear; symbols from one cultural group are regularly copied by others. This is why symbols represent the outer, most superficial layer of culture.

Heroes are persons, alive or dead, real or imaginary, who possess characteristics that are highly prized in a culture, and thus serve as models for behavior. Founders of companies often become cultural heroes. In this age of television, outward appearances have become more important in the choice of heroes than they were before.

Rituals are collective activities, technically superfluous to reach desired ends, but within a culture considered socially essential: they are therefore carried out for their own sake. Ways of greeting and paying respect to others, social and religious ceremonies are examples. Business and political meetings organized for seemingly rational reasons often serve mainly ritual purposes, like allowing the leaders to assert themselves.

Symbols, heroes and rituals together can be labeled 'practices'. As such they are visible to an outside observer; their cultural meaning, however, is not necessarily visible and lies in the way these practices are interpreted by the insiders.

The core of culture is formed by values. Values are strong emotions with an arrow to it: a minus and a plus pole, such as evil versus good, abnormal versus normal, ugly versus beautiful, dangerous versus safe, immoral versus moral, indecent versus decent, unnatural versus natural, dirty versus clean, paradoxical versus logical, irrational versus rational.

Values are among the first things children learn—not consciously, but implicitly. Because they were acquired so early in our lives, many values remain unconscious to those who hold them. Therefore they can only

rarely be discussed, or directly observed by outsiders. They can only be inferred from the way people act under various circumstances. This includes the way they answer questionnaires, although their answers should not always be taken literally. Interpreting answers to questionnaires is a main task of cross-cultural researchers who nowadays have many statistical tools at their disposal to help them.

NATIONAL CULTURES AND ORGANIZATIONAL CULTURES

Two large research projects into culture differences (Hofstede 1980; Hofstede et al. 1990) showed that national cultures differ mostly at the level of values, while organization cultures differ mostly at the level of the more superficial practices: symbols, heroes, and rituals. National cultures oppose otherwise similar individuals, institutions and organizations across countries; the pioneer study on national cultures was based on different national subsidiaries of one large international business company. Organizational (also called corporate) cultures oppose different organizations within the same countries. The path-breaking study in this field used different organizations or parts of organizations in two countries: Denmark and the Netherlands.

Figure 2: Acquiring mental programs

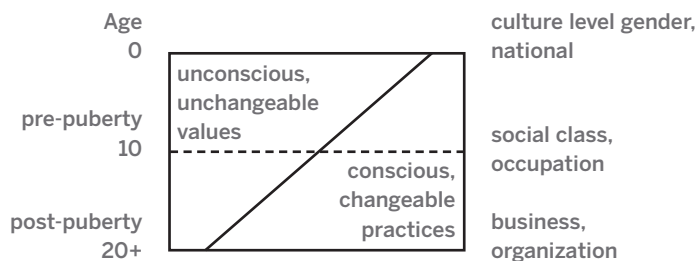


Figure 2 illustrates when and which of our mental programs were acquired. We humans are born incompletely programmed; during the first ten years of our lives we possess an amazing capacity for absorbing complex, diffuse and implicit mental programs. One example is learning a second language: when someone speaks another language accent-free, he or she almost surely learned it as a child. With the onset of puberty, our ways of learning become more explicit and focused; we can still learn foreign languages, but we will almost always retain an accent. As mentioned above, our early programming includes most of our basic values. We acquire these mental programs from our social environment, the family, the neighborhood, and early schooling. The right-hand column of figure 2 shows which levels of culture we acquire, and in which period. We are born boy or girl, and within a nation. Gender and nationality are therefore most decisive for our basic values. The school period mostly bridges puberty; the kind of school students attend relates to their social class, and influences their future occupation. Our school education mixes both values and practices. Cultures of work organizations are acquired through socialization at the work place, which most people enter as adults—that is, with their basic values firmly in place. A business culture (like the culture of banking, or of tourism) can be placed somewhere between the occupation and the organization level.

National cultures differ mostly at the level of values, while organization cultures differ mostly at the level of the more superficial practices: symbols, heroes, and rituals

So national culture differences are rooted in values learned before age 10; children learn them from parents who also acquired them before age ten, so they are quite stable and take generations to be changed.

Organizational cultures are rooted in practices learned on the job, and

they can change much faster. Their implications for management are quite different, as will be shown later.

THE DIMENSIONS PARADIGM IN STUDYING THE SOCIAL WORLD

My own cross-cultural research in the 1970s started from a large database of employee value statements (more than 100,000 questionnaires) collected in subsidiaries of the IBM corporation in 40 countries (Hofstede 1980). Being trained as a psychologist, I initially tried to analyze the data across individuals, but after a long struggle I discovered that they made much more sense if I compared mean answers across countries. When I did that, I could relate the differences between country cultures to basic dilemmas of human societies, which had been described 20 years earlier in a review of the anthropological and sociological literature (Inkeles and Levinson 1969 [1954]). These dilemmas corresponded with *dimensions* on which each country could be scored. The dimension approach to culture research has since become a paradigm for empirical cross-cultural research. A paradigm is “a model from which spring particular coherent traditions of scientific research” (Kuhn 1970).

Dimensions are a conceptual way of dividing complex realities into separate basic elements. Many thinkers about the social world have divided it into categories, but the dimensions in this case are not born from armchair reflection but from empirical research, using the methods of modern statistical analysis. Like ‘culture’, ‘dimensions’ are *constructs*. According to the definition by Levitin cited above, they should be “useful in predicting ... observable and measurable verbal and nonverbal behaviors.” Demonstrating these is called *validation*.

The social world is like a cake that can be cut in different ways: the way we divide it into dimensions depends on our intended purpose for them.

So there is not one set of 'correct' dimensions: different applications may need different models. Moreover, dimensional models depend on the level of analysis. As will be shown below, dimensions for comparing societies (countries) are completely different from dimensions for comparing organizations, and these are again different from dimensions for comparing individuals. Dimensions for comparing societies belong to anthropology, for comparing organizations to sociology, for comparing individuals to psychology. Applied disciplines like management studies, political science and economics that operate at more than one level of analysis run a danger of confusing dimensions from different levels.

COMPARING NATIONAL CULTURES

The most recent version of the Hofstede model for comparing national societies consists of six independent dimensions, rooted in differences between national cultural values. Scores on each dimension on a 0–100 scale are available for between 76 and 93 countries (Hofstede, Hofstede and Minkov 2010). The dimensions have been labeled:

1. Power Distance (large versus small), related to solutions for the basic problem of human inequality;
2. Uncertainty Avoidance (strong versus weak), related to the level of stress in a society in the face of an unknown future;
3. Individualism versus Collectivism, related to the integration of individuals into primary groups;
4. Masculinity versus Femininity, related to the division of emotional roles between women and men;
5. Long-Term versus Short-Term Orientation, related to the choice of focus for people's efforts: the future or the present and past;
6. Indulgence versus Restraint, related to the extent of gratification of human desires for enjoying life.

Several of the dimensions have been replicated in major surveys by others among different kinds of respondents (Hofstede, Hofstede and Minkov, 2010, 35). The ranking of countries on the dimensions has been quite stable since the first data were collected. More important, the dimensions were validated against a large variety of cross-national data from other sources. Hofstede (2001, 520) lists more than 400 significant correlations for the first five dimensions. Examples are:

- Power distance correlates with: income inequality, respect for elders, polarization and violence in national politics.
- Uncertainty avoidance correlates with: number of laws and rules, belief in experts, xenophobia, faster driving.
- Individualism correlates with: national wealth, faster walking, weaker family ties, frequency of using the word “I.”
- Masculinity correlates with: a stress on growth as opposed to care for the weak and the environment, and negatively with the percentage of women elected in parliaments and governments.
- Long-Term Orientation correlates with: savings rates, economic growth of poor countries, and adapting to changed reality, as opposed to Short-Term Orientation which correlates with: concern for social obligations, national pride, and fundamentalisms.
- Indulgence correlates with: higher birthrates, more active sports, more obesity, more private Internet, smaller police force.

These societal-level dimensions have been applied in literature from a surprising number of different disciplines and areas, like:

- Cross-cultural psychology
- Structure of language, cognition, intelligence
- International and diversity management
- International business, acquisitions, alliances
- International marketing, advertising, consumer behavior, packaging
- International politics and economics
- International legislation, procedural justice, imprisonment, insurance

- Architecture, urban/country planning, office design, industrial design
- Health, medicine, psychiatry, medication, care
- Ethics, religion, spirituality, sexuality

COMPARING ORGANIZATIONAL CULTURES

Our research project into organization culture differences (Hofstede et al. 1990; Hofstede 2001) was carried out on 20 units from ten different organizations, five in Denmark, five in the Netherlands. On the IBM national culture dimensions these two countries scored fairly similarly: both belong to the same Nordic-Dutch cluster. Units of study were both entire organizations and parts of organizations, which their management assumed to be culturally reasonably homogeneous (the research outcome later enabled this assumption to be tested). Unit sizes varied from 60 to 2,500 persons. The number of units was small enough to allow each unit to be studied in depth, qualitatively, as a separate case study. At the same time, it was large enough to permit statistical analysis of comparative quantitative data to cover all cases.

The first, qualitative phase of the research followed a classical anthropological approach. It consisted of in-depth person-to-person interviews of two to three hours duration each with nine informants per unit (thus, a total of 180 interviews). These interviews served both to get a qualitative feel for the whole (the 'gestalt') of the unit's culture, and to collect issues to be included in the questionnaire for the ensuing survey.

The second, quantitative phase of the project consisted of a paper-and-pencil survey with pre-coded questions, administered to a strictly random sample from the unit, composed of about twenty-five managers (or as many as the unit counted), twenty-five college-level non-managers ('professionals') and twenty-five non-college-level non-managers. The

questions in the survey included those used in the cross-national IBM study; most however were developed on the basis of the interviews of the first phase. Questions were formulated about all issues that the interviewers suspected differed substantially from one unit to another. These included in particular many perceptions of daily practices, which had not been covered in the cross-national studies.

A statistical (factor) analysis of the survey answers found only small differences in values between the units, but larger differences in practices. These could be divided into six dimensions of organizational cultures, and corresponded to distinctions well known from organization sociology and management studies. We labeled them as follows:

1. Process-oriented versus results-oriented. Process-oriented cultures are dominated by technical and bureaucratic routines, results-oriented by a common concern for outcomes.
2. Job-oriented versus employee-oriented. The former assume responsibility for the employees' job performance only, and nothing more; employee-oriented cultures assume a broad responsibility for their members' well-being.
3. Professional versus parochial. In the former, the (usually highly educated) members identify primarily with their profession; in the latter, the members derive their identity from the organization for which they work.
4. Open systems versus closed systems. This dimension refers to the common style of internal and external communication, and to the ease with which outsiders and newcomers are admitted.
5. Tight versus loose control. This dimension deals with the degree of formality and punctuality within the organization; it is partly a function of the unit's technology: banks and pharmaceutical companies can be expected to show tight control, research laboratories and advertising agencies loose control; but even with the same technology some units may still be tighter or looser than others.

6. Pragmatic versus normative. The last dimension describes the prevailing way (flexible or rigid) of dealing with the environment, in particular with customers. Units selling services are likely to lean towards the pragmatic (flexible) side, units involved in the application of laws and rules towards the normative (rigid) side.

Just as the national culture dimensions were validated against cross-national data from other sources, we validated the organizational culture dimensions against information about the organizations from other sources. For each of the dimensions, we found one or more significant correlations with other data:

- Process rather than results orientation correlated with: material-versus labor-intensive processes, higher absenteeism, and steeper hierarchical structure.
- Employee rather than job orientation correlated with: higher invested capital, younger workforce, and more highly educated top managers.
- Parochial rather than professional correlated with: public ownership, smaller size, more unionization, and fewer meetings.
- Open rather than closed correlated with: higher percentage of female employees, higher average employee seniority, less formalized organization, freer expression of employee opinions in in-company personnel journal.
- Loose rather than tight correlated with: lower percentage of female managers, higher average employee education, recent growth, and lower absenteeism.
- Normative rather than pragmatic correlated with: public versus private ownership.

Our six dimensions are being used by management consultants in various countries as a framework to describe, measure and compare organization cultures, and to monitor cultural change processes. A caution is that their research base in 20 units from two North-West European countries is too

narrow for declaring them universally valid and sufficient. For describing organization cultures in countries with markedly different national cultures and/or in kinds of organizations not covered in our initial study, additional dimensions of practices may be necessary and/or some of the present six may be less useful. In such cases, a similar research project should be carried out on a sufficient number of local organizations, and relevant dimensions should be extracted from that; they will probably partly overlap with the ones in our study.

CULTURE AND THE ROLE OF INTERNATIONAL MANAGEMENT

Since the 1980s, 'culture' has become a main concern for management. It started when Japanese companies outperformed American companies, and 'Japanese culture' or 'Japanese management' was invoked as the mysterious recipe for their success. In 1982, two books, each by a Harvard professor and a McKinsey consultant (Deal and Kennedy 1982; Peters and Waterman 1982) introduced the concept of 'corporate culture' to explain why some American companies did so much better than others. The 1980 first edition of my book *Culture's Consequences* owed part of its success to being the first data-based research report in an otherwise fuzzy and mysterious area. The distinction between national and organizational cultures was not clear to many readers; some tried applying my cross-national dimensions to corporate cultures.

The new interest in 'corporate cultures' was the immediate reason for designing our Danish-Dutch organizational cultures project. Setting it up and financing it took considerable time; the data were collected in 1985 and 1986 and the final article (Hofstede et al.) was published in 1990. In 1991 the first edition appeared of a student textbook *Cultures and Organizations: Software of the Mind* which integrated our

findings about organizational cultures with our earlier findings about national cultures, and drew conclusions about their implications for management.

The fact that national cultures were found to differ primarily in their values, and organizational cultures in their practices, has profound implications for the management of culture. National cultures are rooted in values acquired in our childhood, they are passed on from generation to generation, and their study belongs to anthropology. They change over time because of outside influences, following their own logic; they cannot be changed according to anyone's plan, neither by political nor by religious nor by business leaders. International managers should see them as the material they have to work with. From an organizational point of view, every national culture has its strengths and its weaknesses, and these should be taken into account when management sets international strategies. On the other hand, organizational cultures, rooted in practices that can be learned and unlearned throughout people's lives, are basically changeable, and their study belongs to organization sociology. They were created, usually unconsciously, by the organizations' founders and early members; their development was influenced by managers and other significant members; they can be changed and monitored, given enough time, money and management attention.

International companies and international organizations always consist of members with different national values. The way they function is through a shared company or organization culture based on common practices. Establishing, monitoring and adapting corporate or organizational practices is a core strategic task for international management. Proper practices are what keeps multinationals together.

Some authors refer to national 'management' and 'leadership' cultures. However, in national cultures, all spheres of life and society are

interrelated: family, school, job, religious practice, economic behavior, health, crime, punishment, art, science, literature, management and leadership. So there is no separate national management or leadership culture—management and leadership can only be understood as part of a larger national culture, and international managers should understand the cultures of the nations their organization operates in.

Companies and organizations function through a shared company or organization culture based on common practices

COMPARING CULTURES OR COMPARING INDIVIDUALS

Dimensions of national cultures describe national societies; dimensions of organizational cultures describe organizations. A common error is to apply these dimensions to the individuals within these societies and/or these organizations. A society is a symbiosis of very different individuals; so is an organization. Applying characteristics of societies or of organizations to the individuals within them is known in sociology as the 'ecological fallacy' (Robinson 1950). National cultures are the result of the interaction of different individuals. Statistically, national culture dimensions are calculated from questions that correlate at the national level (which means national mean scores or national percentages of answers on these questions are strongly correlated), but the same questions usually do not correlate across individuals; they may even show a reverse relationship, as the individuals in a society often supplement each other. The same is true for organizational culture dimensions.

Comparing mental programs of individuals is the subject of personality psychology. Historically, many armchair theories of personality dimensions have competed, but empirical research across a large number

of countries since the early 1990s (Mc Crae and John 1992) has found five universal personality dimensions, known as the “Big Five;”

- Openness to experience
- Conscientiousness
- Extraversion
- Agreeableness
- Neuroticism

Their first letters produce the acronym OCEAN as an aid to memory.

In the early 2000s, Big Five author Robert McCrae compared national standards on his five dimensions (mean scores for standard samples from the national populations) for more than 30 countries and found these to be significantly correlated with the Hofstede dimensions of national culture (Hofstede and McCrae 2004). For example, 39% of the differences in national standards for “Extraversion” were explained by the national culture dimension of Individualism; 31% of the differences in Neuroticism were explained by Uncertainty Avoidance, and 55% by a combination of Uncertainty Avoidance and Masculinity.

A statistical link between the results of our organizational culture study and the Big Five personality dimensions was demonstrated in Hofstede, Bond and Luk (1993). In the organizational culture study, different individuals within the same organizational unit did not necessarily give identical answers to questions about how they saw their organization's practices. The organizational culture study had not looked at these differences between individuals: its concern was with differences between organizational units. Michael Bond and Chung-Leung Luk re-analyzed the data to find out in what ways individuals' answers differed after organization culture differences were eliminated. They showed that the answers of individuals in this case differed along six dimensions of individual personality, and that five of these closely resembled the Big

Five. The sixth had no equivalent, but in later years extensions of personality research to Asia suggested that for true universality the Big Five should be extended with a sixth: Dependence on others (Hofstede 2007), and this supplies the missing equivalent for the sixth individual dimension from the organizational cultures study.

In spite of evidence and reason, quite a few articles are still published in which cross-societal dimensions, especially Individualism versus Collectivism, are applied to describe individuals. A review article “of empirical research incorporating Hofstede’s cultural values framework” by Kirkman, Lowe and Gibson (2006) listed 180 studies, of which no less than 100 had applied societal culture dimensions to individuals. Nearly all of these appeared in the United States, where the concept of the free individual is strong and the concept of society is weak. But confusing societies with individuals does not make sense, neither conceptually nor statistically. It can also lead to unwanted stereotyping. Individuals have no personal culture but do have individual personalities, partly influenced by the culture in which they grew up, but with a large range of personal variance due to many other factors.

CONCLUSION: GARDENS, BOUQUETS, AND FLOWERS

The two research projects described illustrate the rich possibilities of empirical multilevel research. The national culture project started from what had been supposed to be individual psychological data and aggregated them to the society level. Related to basic anthropological dilemmas, they caused a paradigm shift for cross-cultural research and proved relevant to a variety of other social science fields. A quarter of a century later they even supplied new insights into personality psychology, so that the project had come full circle. In the second project, a study started anthropologically led into organization sociology; and when

re-analyzed across individuals it reconfirmed dimensions from personality psychology.

The social sciences have compartmentalized the study of the social world, and visits to neighboring disciplines or even sub-disciplines are too seldom encouraged. Some social scientists are even unaware of the level at which they operate. But whether we like it or not, we live in national societies, belong to organizations, and have our own personalities, and these relate to each other. Disciplinary parochialism and level myopia do not only make the social sciences sterile; they also make them dull. It is exciting to explore more than one level of the social reality. Societies are the gardens of the social world, organizations the bouquets, and individuals the flowers; a complete social gardener should be able to deal with all three.

BIBLIOGRAPHY

- Deal, T. E. and A. A. Kennedy. 1982. *Corporate Cultures: The Rites and Rituals of Corporate Life*. Reading, MA: Addison-Wesley.
- Hofstede, Geert. 1980. *Culture's Consequences: International Differences in Work-Related Values*. London: Sage.
- Hofstede, Geert. 1991. *Cultures and Organizations: Software of the Mind*. London: McGraw-Hill.
- Hofstede, Geert. 2001. *Culture's Consequences: Comparing Values, Behaviors, Institutions, and Organizations Across Nations*. Thousand Oaks, CA: Sage.
- Hofstede, Geert. 2007. "A European in Asia." *Asian Journal of Social Psychology* 10: 16–21.
- Hofstede, Geert, and R. R. McCrae. 2004. "Personality and Culture Revisited: Linking Traits and Dimensions of Culture." *Cross-Cultural Research* 38, 1: 52–88.
- Hofstede, Geert, M. H. Bond and C. L. Luk. 1993. "Individual Perceptions of Organizational Cultures: a Methodological Treatise on Levels of Analysis." *Organizational Studies* 14: 483–503.
- Hofstede, Geert, G. J. Hofstede and M. Minkov. 2010. *Cultures and Organizations: Software of the Mind*. New York: McGraw-Hill.
- Hofstede, Geert, B. Neuijen, D. D. Ohayv, and G. Sanders. 1990. "Measuring Organizational Cultures: a Qualitative and Quantitative Study across Twenty Cases." *Administrative Science Quarterly* 35: 286–316.
- Inkeles, A., and D. J. Levinson. 1969 [1954]. "National Character: The Study of Modal Personality and Socio-Cultural Systems." In *The Handbook of Social Psychology*, edited by G. Lindzey and E. Aronson. Reading, MA: Addison-Wesley.
- Kirkman, B. L., K. B. Lowe and C. B. Gibson. 2006. "A Quarter Century of Culture's Consequences: a Review of Empirical Research Incorporating Hofstede's Cultural Values Framework." *Journal of International Business Studies* 37: 285–320.
- Kuhn, T. S. 1970. *The Structure of Scientific Revolutions*. Chicago, IL: University of Chicago Press.
- Levitin, T. 1973. "Values." In *Measures of Social Psychological Attitudes*, edited by J. P. Robinson and P. R. Shaver. Ann Arbor, MI: Survey Research Center, Institute for Social Research, University of Michigan.
- McCrae, R. R., and O. P. John. 1992. "An Introduction to the Five-Factor Model and its Applications." *Journal of Personality and Social Psychology* 60: 175–215.
- Peters, T. J., and R. H. Waterman Jr. 1982. In *Search of Excellence: Lessons from America's Best-Run Companies*. New York, NY: Harper and Row.
- Robinson, W. S. 1950. "Ecological Correlations and the Behavior of Individuals." *American Sociological Review* 15: 351–357.

>> “Culture” does not *exist* in a tangible sense, it is a product of our imagination and is only useful in so far as far as it helps us understand and predict phenomena in the real world.

>> National and organizational cultures are quite different phenomena: national cultures belong to anthropology, organizational cultures to sociology.

>> Management can never change a national culture, it can only understand and use it. It can create and sometimes change an organizational culture.

>> The concept of “culture” does not apply at the level of individuals. Individuals have personalities, only partly influenced by the culture in which they grew up.

GEERT HOFSTEDE

Maastricht University

ETHICS, VALUES AND CORPORATE GOVERNANCE

Thomas Clarke

Business decision-making is a moral exercise

INTRODUCTION

Since the origin of commerce, the ethical basis of business has been in question. In the ancient Greek civilisation Aristotle could readily distinguish between the basic trade required for an economy to function, and trade for profit which could descend into unproductive usury (Solomon 1992, 321). Most major world religions cast a sceptical eye on business, including Christianity, Islam and Confucianism. Shakespeare immortalised the potential venality of business in *The Merchant of Venice*, “All that glisters is not gold.” Frentrop (2003) graphically records how greed, speculation, deceit and frequent bankruptcy punctuated the fortunes of the earliest of the great trading companies, beginning with the Dutch East India Company. Adam Smith in 1776 in *The Wealth of Nations* made a withering comment on company management that would echo through the ages: “Being managers of other people’s money than their own, it cannot well be expected that they should watch over it with the same anxious vigilance with which the partners in a private co-partner frequently watch over their own ... Negligence and profusion, therefore, must always prevail more or less in the management of the affairs of a joint-stock company” (Smith 1976, 264–265).

As technological change advanced with the industrial revolution, there occurred a wider diffusion of ownership of many large companies as no individual, family or group of managers could provide sufficient capital to sustain growth. Berle and Means chronicled the profound implications of this *separation of ownership and control*: “the dissolution of the old atom of ownership into its component parts, control and beneficial ownership” (1933, 8). Berle and Means expressed hope that with this different concept of a corporation there might develop a much wider accountability to the community, recognising the significance of the diffusion of ownership and the concentration of control in the modern corporation: “The economic power in the hands of the few persons who control a giant corporation is a tremendous force which can harm or benefit a multitude of individuals, affect whole districts, shift the currents of trade, bring ruin to one community and prosperity to another (Berle and Means 1933, 46).

However any hope of a wider sense of fiduciary duty in corporations was eroded away in the later decades of the twentieth century in the Anglo-American world, as capital markets became more aggressive and unstable, and executive compensation was propelled upwards by stock options. A succession of cycles of booming economies, followed by market collapse and recession, culminated in 2007–2008 in the first global financial crisis, which was also a crisis in governance and regulation. The most severe financial disaster since the Great Depression of the 1930s exposed the dangers of unregulated markets, nominal corporate governance, and neglected risk management. What also appeared in stark relief were an economic system and corporations and managers singularly lacking in any moral compass.

It has been argued that the dominant logic in this era, in both finance and law of *agency theory*, had reduced managers to mere agents of shareholder principles. Agency theory asserts that *shareholder value* is

the ultimate corporate objective which managers are incentivised and impelled to pursue: “The crisis has shown that managers are often incapable of resisting pressure from shareholders. In their management decisions, the short-term market value counts more than the long-term health of the firm” (Segrestin and Hatchuel 2011, 484; Jordi 2010). Agency theory has become “a cornerstone of ... corporate governance” (Lan and Heracleous 2010, 294). As governments, regulators, and financial institutions examined what had gone wrong during the crisis, a new sense of the importance of robust regulation, alert corporate governance, and stronger ethical guidelines became widespread. In effect what is now emerging is an integration of corporate governance, corporate social responsibility and corporate sustainability which potentially offers a new framework for ethical business.

This newly-emerging ethical framework for business provides a stronger base for the exercise of moral values and ethical reasoning. “People in business are ultimately responsible as individuals, but they are responsible as individuals in a corporate setting where their responsibilities are at least in part defined by their roles and duties in the company ... businesses in turn are defined by their role(s) and responsibilities in the larger community ...” (Solomon 1992, 320). This suggests an ethical alignment of individuals, corporations, and the economic system, which is captured in the definition of corporate governance offered by Cadbury, and adopted by the World Bank:

Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society.

This definition highlights the importance of corporate governance in providing the incentives and performance measures to achieve business success, and secondly in providing the accountability and transparency to ensure the equitable distribution of the resulting wealth. Finally the significance of corporate governance in enhancing the stability and equity of society recognises a more positive and proactive role for business. Rather than corporate governance and regulation being inherently restrictive, they can be a means of enabling corporations to achieve the highest goals of corporate achievement. Equally a more positive approach to business ethics can be imagined (Solomon 1992, 330):

Business ethics is too often conceived as a set of impositions and constraints, obstacles to business behavior rather than the motivating force of that behavior ... properly understood, ethics does not and should not consist of a set of prohibitive principles or rules, and it is the virtue of an ethics of virtue to be rather an intrinsic part and the driving force of a successful life well lived. Its motivation need not depend on elaborate soul-searching and deliberation but in the best companies moves along with the easy flow of interpersonal relations and a mutual sense of mission and accomplishment.

HISTORICAL DEVELOPMENT OF CORPORATE GOVERNANCE AND ACCOUNTABILITY

The balance of pursuing market opportunities while maintaining accountability has proved a defining challenge for business enterprise since the arrival of the joint-stock company in the early years of industrialism. The accountability and responsibility of business enterprise was constantly subject to question, and historically failed this test—often in the view of the public. Maurice Clark deplored how business “inherited

an economics of irresponsibility” from the laissez-faire beliefs and practices of early industrialism (1916). He argued that business transactions do not occur in isolation, but have wider social and economic consequences which need to be considered, impacting directly on employment, health and the environment. He insisted that legal regulation may be required to ensure protection from abuses, but that this could never replace a general sense of responsibility in business that goes beyond the letter of the law, preventing competitive forces from leading to a race to the bottom. Hence the periodic outbreak of destructive competition needed to be restrained in Clark’s view by “an economics of responsibility, developed and embodied in our working business ethics” (1916).

The debate concerning the true extent of the accountability and responsibility of business enterprise has continued to the present day, punctuated by occasional public outrage at business transgressions, and calls for greater recognition of the social obligations of business. At the height of the economic depression in the United States in 1932, Dodd made a dramatic plea in the pages of the Harvard Law Review: “There is in fact a growing feeling not only that business has responsibilities to the community but that our corporate managers who control business should voluntarily and without waiting for legal compulsion manage it in such a way as to fulfill these responsibilities.” This resonated with Berle and Means’ insistence that large corporations “serve not alone the owners or the control, but all society.” Though Berle subsequently commenced a prolonged debate with Dodd on the subject of *For Whom Are Corporate Managers Trustees*, he (Berle) (1955) later conceded to Dodd’s argument that management powers were held in trust for the entire community (Wedderburn 1985, 6).

Such forthright views did not remain at the level of academic speculation, but often were translated into legal, policy and business interpretations

and practice. For example in *Teck Corp Ltd v. Millar*, the Supreme Court of British Columbia, while retaining the identification of company interests with those of shareholders, nonetheless was prepared to grant directors a licence under their fiduciary duties to take into account wider stakeholder interests (*Teck Corp Ltd v. Millar* 1973, 313–314):

The classical theory is that the directors' duty is to the company. The company's shareholders are the company ... and therefore no interests outside those of the shareholders can legitimately be considered by the directors. But even accepting that, what comes within the definition of the interests of the shareholders? By what standards are the shareholders' interests to be measured? A classical theory that once was unchallengeable must yield to the facts of modern life. In fact, of course, it has. If today the directors of a company were to consider the interests of its employees no one would argue that in doing so they were not acting bona fide in the interests of the company itself. Similarly, if the directors were to consider the consequences to the community of any policy that the company intended to pursue, and were deflected in their commitment to that policy as a result, it could not be said that they had not considered bona fide the interests of the shareholders.

Wedderburn (1985, 12) documents an equivalent deep-seated and practical commitment of corporate responsibility to a wide constituency in the post-war beliefs of leaders of the British business community. A lively debate continues world-wide concerning the scope of directors' duties. In Australia, the Corporations Act Section 181 obliges directors and other corporate officers to exercise their powers and discharge their duties:

- in good faith and in the best interests of the corporation;
- for a proper purpose.

Under common law directors are obliged to act in the interests of “the company as a whole.” Traditionally this phrase has been interpreted to mean the financial well-being of the shareholders as a general body (though directors are obliged to consider the financial interests of creditors when the firm is insolvent or near-insolvent). A recent generation of financial economists helped to translate this broad shareholder primacy principle into a narrow pursuit of shareholder value. This restrictive definition of shareholder value has often been associated with short-termism and a neglect of wider corporate responsibilities in the interests of immediate profit maximisation. Concerns have arisen that directors who do wish to take account of other stakeholder interests may be exposed. However there is a wider interpretation of shareholder value which suggests that only when all of the other constituent relationships of the corporation—with customers, employees, suppliers, distributors and the wider community—are fully recognised and developed, can long-term shareholder value be released.

In 2007–2008 the first global financial crisis exposed the dangers of unregulated markets, nominal corporate governance, and neglected risk management

Traditionally, commercial law in many European countries has supported a sense of the wider social and environmental obligations of companies, which continues despite a recent enthusiasm for the principle of shareholder value as some large European companies for the first time seek the support of international investors. The United Kingdom has stood apart from Europe as an influential exponent of the Anglo-American market-based approach to corporate governance. However, in an effort to jettison the company-law rhetoric instituted in the 19th century, and to make the law more accessible, a Company Law Review (CLR) steering group was

established. The ensuing consultative document Modern Company Law for a Competitive Economy: Developing the Framework (2000) proposed for the first time that there should be a statutory statement of directors' duties (in the past the core components of those duties was found in case law), and made a significant step in the direction of endorsing fuller corporate social and environmental reporting (CLR 2000, 180–181):

Current accounting and reporting fail to provide adequate transparency of qualitative and forward-looking information which is of vital importance in assessing performance and potential for shareholders, investors, creditors and others. This is particularly so in the modern environment of technical change, and with the growing importance of “soft,” or intangible assets, brands, know-how and business relationships. The full annual report must be effective in covering these, both as a stewardship report and as a medium of communication to wider markets and the public ... we believe the time has come to require larger companies to provide an operating and financial review, which will cover the qualitative, or “soft,” or intangible, and forward-looking information which the modern market and modern business decision-making require, converting the practice of the best-run companies into a requirement for all.

These issues were extensively considered in the United Kingdom for several years in the deliberations of the Modern Company Law Review.

Two approaches were considered:

- a pluralist approach under which directors' duties would be reformulated to permit directors to further the interests of other stakeholders even if they were to the detriment of shareholders;
- an enlightened shareholder-value approach allowing directors greater flexibility to take into account longer-term considerations and interests of various stakeholders in advancing shareholder value.

In considering these approaches, the essential questions of what is the corporation, and what interests it should represent are exposed to light, as Davies eloquently argues (2005, 4):

The crucial question is what the statutory statement says about the interests which the directors should promote when exercising their discretionary powers. The common law mantra that the duties of directors are owed to the company has long obscured the answer to this question. Although that is a statement of the utmost importance when it comes to the enforcement of duties and their associated remedies, it tells one nothing about the answer to our question, whose interests should the directors promote? This is because the company, as an artificial person, can have no interests separate from the interests of those who are associated with it, whether as shareholders, creditors, employers, suppliers, customers or in some other way. So, the crucial question is, when we refer to the company, to the interests of which of those sets of natural persons are we referring?

As a member of the Corporate Law Review Steering Group, Davies goes on to defend the enlightened shareholder-value view suggesting that the pluralist approach produces a formula which is unenforceable, and paradoxically gives management more freedom of action than they previously enjoyed. An Australian legal expert, Redmond, endorses this critique of widening the scope of directors' duties too greatly (Redmond 2005, 27):

The pluralist or multifiduciary model rests on a social, not a property, view of the corporation. It identifies the corporate purpose with maximizing total constituency utility. This is an indeterminate outcome measure which poses particular difficulties in translation into a legally enforceable duty. The

indeterminacy of the criteria for decision and performance measurement also points to a probable loss of accountability for directors since it offers broad scope to justify most decisions. It is difficult to resist the conclusion of the British review that either it confers a broad unpoliceable policy discretion on managers themselves or just gives a broad jurisdiction to the courts. The model needs either practical rehabilitation or a superior performance metric. It is not clear where either might be found.

In the resulting British Company Law Reform Bill (2005) the enlightened shareholder-value view has prevailed in clause 156, which defines the essential directoral duty as:

Duty to promote the success of the company

1. A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole.
2. Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, his duty is to act in the way he considers, in good faith, would be most likely to achieve those purposes.
3. In fulfilling the duty imposed by this section a director must (so far as reasonably practicable) have regard to:
 - a. the likely consequences of any decision in the long term,
 - b. the interests of the company's employees,
 - c. the need to foster the company's business relationships with suppliers, customers and others,
 - d. the impact of the company's operations on the community and the environment,

- e. the desirability of the company maintaining a reputation for high standards of business conduct, and
 - f. the need to act fairly as between members of the company.
4. The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.

This clause replaces the discretion of directors to have regard for stakeholder interests with a duty for directors to do this (Davies 2005, 5):

As far as directors' duties are concerned, this is the heart of the enlightened shareholder-value approach. The aim is to make it clear that although shareholder interests are predominant (promotion of the success of the company for the benefit of its members), the promotion of shareholder interests does not require riding roughshod over the interests of other groups upon whose activities the business of the company is dependent for its success. In fact, the promotion of the interests of the shareholders will normally require the interests of other groups of people to be fostered. The interests of non-shareholder groups thus need to be considered by the directors, but, of course, in this shareholder-centred approach, only to the extent that the protection of those other interests promotes the interests of the shareholders. The statutory formulation can be said to express the insight that the shareholders are not likely to do well out of a company whose workforce is constantly on strike, whose customers don't like its products and whose suppliers would rather deal with its competitors.

In this way the Company Law Reform Bill treads a fine legal line between a sense of "enlightened shareholder value" which is becoming best practice in many leading companies, and more radical claims for company law to

adopt a more “pluralist” sense of the ultimate objectives of the enterprise and the interests to be served. The reform manages this balancing act by suggesting that the pluralist objectives of maximizing company performance to the benefit of all stakeholders can best be served by professional directors pursuing commercial opportunities within a framework of standards and accountability:

The overall objective should be pluralist in the sense that companies should be run in a way which maximizes overall competitiveness and wealth and welfare for all. But the means which company law deploys for achieving this objective must be to take account of the realities and dynamics which operate in practice in the running of a commercial enterprise. It should not be done at the expense of turning company directors from business decision-makers into moral, political or economic arbiters, but by harnessing focused, comprehensive, competitive decision-making within robust, objective professional standards and flexible, but pertinent accountability (CLR 2000, 14).

The reform supports the ultimate power of shareholders to appoint or dismiss directors for whatever reasons they choose, and to intervene in management to the extent the constitution permits, and confesses: “There is clearly an inconsistency between leaving these powers of shareholders intact and enabling or requiring directors to have regard to wider interests ... the effect will be to make smaller transactions within the powers of directors subject to the broad pluralist approach, but larger ones which are for shareholders subject only to the minimal constraints which apply to them” (CLR 2000, 26).

It is likely that the modern company law proposals will over time facilitate the wider and more conscious adoption by British companies of social and environmental commitments, and the willingness to report fully on

them. In time it is possible that such social and environmental commitments will become part of widespread company and management best practice, in the way that the commitment to quality in the production of goods and services has become universal. Moreover, just as the United Kingdom in the publication of the Cadbury code of corporate governance ultimately influenced a considerable number of other countries to adopt a similar code, it is possible that other countries, particularly that share a common law tradition with the United Kingdom, will begin to review their company law with similar objectives in mind.

Moral liability occurs when corporations violate stakeholder expectations of ethical behaviour in ways that put business value at risk

One reason why the agenda of corporate responsibility is increasingly irresistible is that while legal liability of corporations is deepening, what has been described as an emerging and hardening moral liability is exerting increasing influence. In this respect the legislative process lags behind what society thinks, values and respects. Moral liability occurs when corporations violate stakeholder expectations of ethical behaviour in ways that put business value at risk. There is an increasing convergence between these two forms of liability, as corporations come under scrutiny both by the law and—often more immediately and pointedly—by public opinion (SustainAbility 2004, 5).

CORPORATE SOCIAL RESPONSIBILITY

The narrow focus of corporate governance exclusively upon the internal control of the firm and simply complying with regulation is no longer tenable. In the past this has allowed corporations to act in extremely

irresponsible ways by externalising social and environmental costs. Corporate objectives described as “wealth generating” too frequently have resulted in the loss of well-being to communities and the ecology. But increasingly in the future the license to operate will not be given so readily to corporations and other entities. A license to operate will depend on maintaining the highest standards of integrity and practice in corporate behavior. Corporate governance essentially will involve sustained and responsible monitoring of not just the financial health of the company, but the social and environmental impact of the company.

A substantial increase in the range, significance and impact of corporate social and environmental initiatives in recent years suggests the growing materiality of sustainability. Once regarded as a concern of a few philanthropic individuals and companies, corporate social and environmental responsibility appears to be becoming established in many corporations as a critical element of strategic direction, and one of the main drivers of business development, as well as an essential component of risk management. Corporate social and environmental responsibility (CSR) seems to be rapidly moving from the margins to the mainstream of corporate activity, with greater recognition of a direct and inescapable relationship between corporate governance, corporate responsibility, and sustainable development.

The burgeoning importance of this newly revived movement is demonstrated by the current frequency and scale of activity at every level (Calder and Culverwell 2005, 43). Among international organizations the United Nations is coordinating a public-private partnership between UNEP and 170 banks, insurers and asset managers world-wide including Deutsche Bank, Dresdner Kleinwort Wasserstein, Goldman Sachs, HSBC and UBS to explore the financial materiality of environmental, social and governance (ESG) issues to securities valuation (UNEP 2004). Early in 2005 the UN convened a group of 20 of the world’s largest institutional

investors to negotiate a set of Principles for Responsible Investment, and published a *Working Capital* report in early 2006 as a guide to the investment community on how to incorporate environmental, social and governance issues into their investment decision-making and ownership processes. This builds on the work of the UN Global Compact with more than 1,500 corporate signatories, which is working with the world's leading stock exchanges and the World Federation of Exchanges to advance the principles of corporate responsibility in capital markets and with public corporations (UN 2000).

In 2005 institutional investors representing US\$21 trillion in assets came together for the third Carbon Disclosure Project meeting, collectively requesting the world's largest corporations to disclose information on greenhouse-gas emissions and their approach to the management of carbon risks (UNEP FI 2005). Finally, 36 of the world's largest banks, representing more than 80% of the global project finance market, have adopted the Equator Principles, a set of voluntary principles outlining environmental, social and human rights disciplines associated with project finance above US\$50 million (Freshfields Bruckhaus Deringer 2005). The principles originally were developed by the International Finance Corporation (IFC), the private sector investment arm of the World Bank. The OECD also is active in the promotion of CSR in its guidelines for the operations of multinational corporations; and the European Union is actively encouraging CSR as the business contribution to sustainable development (OECD 2000; European Commission 2003, 2004). At the national level a growing number of governments in Europe, and across the globe, have identified strongly with the call for corporate social and environmental responsibility, even with the evident difficulties in applying the Kyoto Protocol and creating an effective international climate-policy regime.

At the corporate level the World Business Council for Sustainable Development, and World Economic Forum Global Corporate Citizenship

Initiative have projected corporate responsibility in the minds of the international business elite (WBCSD 2002, 2004; WEF 2005). Other business organizations active in promoting CSR include the Business Leaders' Initiative on Human Rights, the Conference Board, Business in the Community, and Business for Social Responsibility. A large number of leading corporations have signed up for the Global Reporting Initiative and more than 2,000 international corporations now publish reports on their CSR performance (many accessible on www.csrwire.com). In 2011 the GRI published new guidelines on materiality, stakeholder inclusiveness, sustainability context, and completeness of reporting (GRI 2011). Reinforcing the new-found willingness on the part of corporate executives to disclose their commitments to CSR are the new indices including the Dow Jones Sustainability Index and FTSE4Good. Finally, there are a proliferating number of consultancies, NGOs and campaign groups offering guidance and actively monitoring CSR activities along the entire length of the global value chain (World Bank 2003).

Corporate governance essentially will involve sustained and responsible monitoring of not just the financial health of the company, but the social and environmental impact of the company

Questions are often addressed regarding the sincerity of corporate social and environmental initiatives; the legality of company directors engaging in these concerns; equally, the legality of the trustees of investment institutions attending to these interests; and the verifiability of CSR activities and outcomes. It is important to clarify the continuing and emerging legal and commercial basis for corporations to pursue corporate social and environmental responsibility; the ongoing legal and material support for institutional trustees to prioritize socially and environmentally responsible investments; to examine developments in verification on

corporate reporting of CSR performance; and to consider some illustrations of current best practice.

THE INTEGRITY OF CORPORATE SOCIAL RESPONSIBILITY

Despite the recent burst of enthusiasm for corporate social and environmental responsibility in some quarters of the business community, the concept and practice still provoke a degree of understandable scepticism (partly due to CSR's record of lapsing into amoral apologetics for unacceptable corporate behavior) (Najam 2000; Christian Aid 2004; Corporate Responsibility Coalition 2005; OECD Watch 2005). David Vogel in a review conducted for the Brookings Institute, *The Market for Virtue: The Potential and Limits of Corporate Social Responsibility* (2005), contends there are many reasons why companies may choose to behave more responsibly in the absence of legal requirements to do so, including strategic, defensive, altruistic or public-spirited motivations. However despite pressure from consumers for responsibly-made products, the influence of socially-responsible investors, and the insistent call for companies to be accountable to a broader community of stakeholders, there are important limits to the market for virtue:

CSR is best understood as a niche rather than a generic strategy: it makes sense for some firms in some areas under some circumstances. Many of the proponents of corporate social responsibility mistakenly assume that because some companies are behaving more responsibly in some areas, some firms can be expected to behave more responsibly in more areas. This assumption is misinformed. There is a place in the market economy for responsible firms. But there is also a large place for their less responsible competitors ... Precisely because

CSR is voluntary and market-driven, companies will engage in CSR only to the extent that it makes business sense for them to do so. Civil regulation has proven capable of forcing some companies to internalize some of the negative externalities associated with some of their economic activities. But CSR can reduce only some market failures (2005, 3–4).

Vogel concludes that CSR has a multidimensional nature, and that companies, like individuals, do not always exhibit consistent moral or social behaviour, and may behave better in some countries than others depending on the social and environmental policies existing there. Since the origins of capitalism, there have always been more or less responsible firms, and it is heartening that executives in many highly visible firms may be becoming more responsive (if only as a result of external stakeholder pressures). However the reality is that the amounts wasted on losses due to financial fraud, the very substantial—and some would argue unwarranted—increases in executive compensation in corporations, and the huge losses in the global financial crisis, in recent years far exceed any resources companies have devoted to CSR.

In a similar vein Deborah Doane who is Chair of the Corporate Responsibility Coalition in the United Kingdom, is sceptical regarding optimism about the power of market mechanisms to deliver social and environmental change, referring to the key myths informing the CSR movement as follows:

- The market can deliver both short-term financial returns and long-term social benefits.
- The ethical consumer will drive change.
- There will be a competitive “race to the top” over ethics amongst businesses.
- In the global economy countries will compete to have the best ethical practices.

In support of her argument that these are largely mythological trends, she highlights the insistence of stock markets upon short-term results and the failure of companies to invest in long-term benefits; the considerable gap between green consciousness expressed by consumers and their consumer behavior; the inconsistency between companies' alignment to CSR schemes, and their successful efforts to bring about the sustained fall in corporate taxation in the United States and other jurisdictions in recent decades; and finally the evidence emerging in developing countries of governments competing to reduce their insistence on the observance of social and environmental standards to attract international investment (Doane 2005).

It may well be the case that further legislative and regulatory intervention will be required to ensure all corporations fully respond to the growing public demand that they recognize their wider social and environmental responsibilities. However, it is useful to examine how far CSR objectives can be achieved within existing law and regulation. If there is substantial evidence of leading corporations demonstrating that it is possible to voluntarily commit to social and environmental performance and to achieve commercial success—perhaps because of, rather than in spite of, ethical commitments—then it will be more straightforward to press for the legislative changes necessary to deal with corporations that refuse to acknowledge their wider responsibilities, as well as find appropriate legislative support for companies that wish to develop further their CSR commitments.

In the meantime, the practical fact is that corporations and governments currently are struggling with an “almost bewildering array of international CSR initiatives” (Calder and Culverwell 2005, 7; McKague and Cragg 2005). Reviewing the efforts to develop CSR following the World Summit on Sustainable Development, a survey by the Royal Institute for International Affairs of stakeholders from governments, businesses and

civil society groups identified a range of significant weaknesses in current approaches to promoting CSR which governments should seek to address:

- an over-proliferation of CSR initiatives at the international level and lack of clarity about how these initiatives relate to each other in a coherent way;
- an excessive focus on getting businesses to make commitments to CSR and not enough focus on enabling them to implement them effectively;
- an absence of credible monitoring and verification processes of CSR initiatives;
- a lack of effective mechanisms of redress for communities affected by companies that flout national or international norms on sustainable development or human rights;
- a lack of engagement with developing-country governments and their sustainable development priorities (e.g. economic development and poverty reduction);
- a failure to bridge the governance gap created by weak public-sector governance of the private sector in many developing countries; the limited impact on national and international sustainable-development goals;
- a lack of government involvement and/or investment in international CSR initiatives, which is contributing significantly to their underperformance (Calder and Culverwell 2005, 7).

DEFINING CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABILITY

The rapidly developing interest in CSR and sustainability has resulted in a plethora of definitions and interpretations of the two concepts from international agencies, consultancies and practitioners (Calder and Culverwell 2005; McKague and Cragg 2005). A first difficulty is that the most commonly employed acronym, CSR, refers to corporate social

responsibility, though in most interpretations it is meant to include environmental responsibility also. The use of the simpler term corporate responsibility and acronym CR is not in widespread use, though it would more readily embrace all corporate responsibilities. The UN's recent adoption of the environmental, social and governance (ESG) acronym may become influential, since it explicitly links governance to social and environmental responsibility.

Corporate sustainability is a critical issue because of the economic scale and significance of these entities and their growing impact on the economy, society and environment

More confusingly still, in some definitions sustainability is included within CSR, while in others CSR is subsumed under sustainability. One source of this confusion is that often different levels of analysis are being addressed. At the highest level the sustainability of the planet is at issue, and at lower levels the sustainability of economies and societies, industries and organisations. Corporate sustainability is a critical issue because of the economic scale and significance of these entities and their growing impact on the economy, society and environment. "Corporations have magnified capacities relative to individuals, in their financial resources, scale of operations, organizational capacity and capacity for social and individual harm" (Redmond 2005, 1). Once the primary (in some cases sole) concern was to produce goods and services that might generate the profits to achieve the financial sustainability of the corporation (everything else was written off as externalities). "Defining limited liability is simple. It means that no matter how much environmental damage a corporation causes, no matter how much debt it defaults on, no matter how many Malibus explode or tires burst or workers or consumers die of asbestosis, no matter how many people it puts out of work without their pension benefits or other

protections; in short, no matter how much pain it causes, the corporation is responsible for paying damages (if at all) only in the amount of assets it has” (Mitchell 2001).

Increasingly today the social and environmental impact of the corporation will be assessed in deciding whether it is viable or not, by governments, regulators, or other stakeholders, even if the corporation's management is reluctant to make this assessment. The license to operate can no longer be readily assumed for any corporation, and in an increasing number of contexts needs to be earned with verifiable evidence of the social and environmental responsibility of the corporation.

Definitions of CSR and sustainability range from the basic to the most demanding, from a specific reference to a number of necessary activities to demonstrate responsibility, to a general call for a comprehensive, integrated and committed pursuit of social and environmental sustainability. The following representative range of definitions of CSR is in ascending order from the least to the most demanding:

- the integration of stakeholders’ social, environmental and other concerns into a company’s business operations (EIU 2005, 2);
- the commitment of businesses to contribute to sustainable economic development by working with their employees, their families, the local community and society at large to improve their lives in ways which are good for business and for development (World Business Council for Sustainable Development 2002, 2011).
- Corporate social responsibility is at heart a process of managing the costs and benefits of business activity to both internal (for example, workers, shareholders, investors) and external (institutions of public governance, community members, civil society groups, other enterprises) stakeholders. Setting the boundaries for how those costs and benefits are managed is partly a question of business policy and strategy and partly a question of public governance (World Bank 2002, 1).

- a concept whereby companies integrate social and environmental concerns into their business operations and their interaction with their stakeholders on a voluntary basis (European Commission 2001, 2009);
- a company's commitment to operating in an economically, socially, and environmentally sustainable manner, while recognizing the interests of its stakeholders, including investors, customers, employees, business partners, local communities, the environment, and society at large (Certified General Accountants Association of Canada 2005, 20).
- CSR is essentially about how the company makes its profits, not only what it does with them afterwards. CSR is about how the company manages, first its core business operations—in the board room, in the workplace, in the marketplace, and along the supply chain; second, its community investment and philanthropic activities; and third, its engagement in public policy dialogue and institution building (Kennedy School of Government Corporate Responsibility Initiative 2004, 33).
- a business approach embodying open and transparent business practices, ethical behavior, respect for stakeholders and a commitment to add economic, social and environmental value (SustainAbility 2011);
- Sustainability performance refers to an organization's total performance, which might include its policies, decisions, and actions that create social, environmental and/or economic (including financial) outcomes (AccountAbility 2005, 10).

Sustainability as a whole (planet, environment, species) is an altogether more ambitious project with more expansive definitions than CSR. Corporations have a vital role to play in this also, beginning with a modest recognition of their necessary subordination to the interests of maintaining a balanced ecosystem. Sustainability is defined as:

- meeting the needs of the present generation without compromising the ability of future generations to meet their needs (Bruntland Commission 1987);

- Sustainable development, sustainable growth, and sustainable use have been used interchangeably, as if their meanings were the same. They are not. Sustainable growth is a contradiction in terms: nothing physical can grow indefinitely. Sustainable use is only applicable to renewable resources. Sustainable development is used in this strategy to mean: improving the quality of human life whilst living within the carrying capacity of the ecosystems (IUCN, UNEP, WWF 1991).

Putting the entire field into perspective, according to the Global Reporting Initiative (GRI) 2011 Sustainability Reporting Guidelines:

- Environmental impact means an organization's impact on living and non-living natural systems, including ecosystems, land, air and water. Examples include energy use and greenhouse gas emissions.
- Social impact means an organization's impact on the social system within which it operates. This includes labor practices, human rights and other social issues.
- Economic impact means an organization's impact both direct and indirect on the economic resources of its stakeholders and on economic systems at the local, national and global levels.

FROM THE MARGINS TO THE MAINSTREAM?

However challenging the prospects, there are growing indications of large corporations taking their social and environmental responsibilities more seriously, and of these issues becoming more critical in the business agenda. KPMG since 1993 has conducted an international survey of corporate responsibility every three years which has revealed the developing prevalence of this commitment. Surveying the largest 100 companies in a sample of advanced industrial OECD countries (with the addition of the Global 250 companies from 1999), KPMG (2008) finds a steadily rising trend in companies issuing separate corporate-responsibility

annual reports. From 13% of national 100 companies reporting on corporate responsibility matters in 1993, by 2008 this had risen to 43% (up to 80% if including information in annual reports). A more substantial increase in the Global 250 reporting occurred with 35% reporting in 1999, 52% in 2005, and 79% by 2008. In addition some companies have integrated their corporate responsibility report with their main financial report. Publication of corporate responsibility reports as part of the annual financial reports of companies sometimes implies the issue is regarded as of greater salience, and companies often progress from separate to integrated CSR and financial reports.

Large corporations are taking their social and environmental responsibilities more seriously, and these issues are becoming more critical in the business agenda

More importantly, the substance of company reports is changing, from purely environmental reporting up until 1999, to sustainability reporting (social, environmental and economic), which has become the mainstream approach of the G250 companies and is becoming so among the national 100 companies. The two leading countries in terms of separate corporate responsibility reporting are Japan (88% of top 100 companies) and the UK (84% of top 100 companies) in 2008.

Finally the KPMG survey reveals a balanced range of business drivers for CSR reporting, beginning with ethical considerations (69% of companies); economic considerations (68%); innovation and learning (55%); reputation or brand (55%); employee motivation (52%); risk management (35%) and access to capital (29%). The survey suggests there were solid reasons for acting and reporting on CSR: "As in previous years, the overall drivers for reporting are ethical and economic considerations. Although

these responses are fairly broad, they indicate that companies realize they operate in a context where they play key roles in contributing to healthy societies, ecosystems, and economies—and that it is in their best interest to maintain and improve these spheres” (KPMG 2005, 18).

In a further international survey of 136 corporate executives and 65 executives of institutional investors on the importance of corporate responsibility (CR) the Economist Intelligence Unit (EIU) discovered a similar growth in interest:

A total of 88% of executives said that CR is a “central” or “important” consideration in decision-making. This compares with 54% of executives who said it was a “central” or “important” consideration five years ago. The biggest percentage change between now and five years ago was among European executives. A total of 46% said CR was “central” or “important” five years ago compared with 84% at the present time. In Asia, the proportion rose from 49% to 82% and in North America from 66% to 88%. The survey of professional investors reveals a sharper trend. Eighty-one percent of those surveyed said CR was currently a “central” or “important” consideration in their investment decisions, compared with 34% who said it was “central” or “important” five years ago. In fact, 14% of them said CR was not a consideration at all five years ago. Now, not a single investor said it was not a consideration (EIU 2005, 5).

As with the gap noticed earlier between consumer consciousness and behavior, it is likely there will be a mighty gulf between the expressed concerns of executives for corporate responsibility and their actual behavior in different circumstances and in the exigencies of difficult situations; however, simply expressing concerns is an advance over stony-faced refusals to even acknowledge responsibilities that may have

occurred in the past. “Corporate responsibility is really about ensuring that the company can grow on a sustainable basis, while ensuring fairness to all stakeholders,” says N. R. Murthy, the chairman of an Indian IT firm, Infosys (EIU 2005, 2). Though some of the expressed concern may be part of the discourse of political correctness, there do appear to be grounds for a significant shifting of opinion among executives, as the EIU comments:

Until recently, board members often regarded corporate responsibility as a piece of rhetoric intended to placate environmentalists and human rights campaigners. But now, companies are beginning to regard corporate responsibility as a normal facet of business and are thinking about ways to develop internal structures and processes that will emphasize it more heavily. In the not-too-distant future, companies that are not focusing on corporate responsibility may come to be seen as outliers. As companies focus on non-financial performance, an important yardstick of corporate responsibility, the measurement of intangibles, such as customer satisfaction and employee morale, are likely to become less vague and more credible (EIU 2005, 3).

One of the surprising results of the EIU survey was that after more than a decade of the exhortation of the primacy in all circumstances of shareholder value, the executives surveyed still possessed a balanced appreciation of the relative importance of key stakeholders to the company, identifying customers, employees and shareholders in that order. The EIU compiled some of the contextual highlights for these changes in executive views in the emerging evidence that corporate social and environmental responsibility is moving substantially from the margins to the mainstream of economic activity:

- The New York-based GovernanceMetrics International (GMI), which covers corporate governance and CR, now produces in-depth rating

reports on 2,000 companies around the world and has a growing client base including TIAA-CREF, State Street Bank and ABP, the largest pension fund in Europe.

- More than 10,000 individuals and 3,000 listed companies have helped to develop the standards of the Global Reporting Initiative (GRI), an organization based in Amsterdam, trying to create a single global measure for CR performance. Among its corporate clients implementing GRI standards are Bayer, Canon, Deutsche Bank, General Motors, Heineken and Shell.
- A group of five major European institutional investors, including the second-largest pension fund in the United Kingdom and the largest pension fund in the Netherlands, jointly stated in October 2004 that they would allocate 5% of their budgets for the purchase of non-financial research analysis of such topics as corporate governance, labor management and environmental practices.
- One in every nine investment dollars under professional management in the United States is now invested in socially responsible funds. This amounts to US\$2 trillion out of a total of US\$19 trillion in investible funds, according to the 2003 report on socially-responsible investing (SRI) produced by the Social Investment Forum, the national trade body for the SRI industry (EIU 2005, 4–5).

A final promising development is the new Manifesto for a “Global Economic Ethic” encompassing consequences for global businesses, which was declared at a business-ethics symposium held at the UN headquarters in New York. The Global Economic Ethic Manifesto is a self-regulatory moral framework/code of conduct “which is both interactive and interdependent with the economic function of the main institutions of the economic system: markets, governments, civil society, and supranational organizations” (Kung 2009). The manifesto includes five universally-accepted principles and values: the principle of humanity; the basic values of non-violence and respect for life; the basic values of

justice and humanity; the basis values of honesty and tolerance; and the basic values of mutual esteem and partnership. This is intended as an ethical complement to the UN Global Compact, with the manifesto providing a framework for ethical values to meet the moral dilemmas confronting boards and directors of multinational corporations, in the way in which the Compact is designed to address market and institutional failures (Hemphill and Lillevik 2011, 213).

The Global Economic Ethic Manifesto is a self-regulatory moral framework. It includes five principles and values: humanity; non-violence and respect for life; justice and humanity; honesty and tolerance; and mutual esteem and partnership

At the confluence of these multiple emerging initiatives and trends towards greater corporate social and environmental responsibility there is emerging a dynamic stakeholder model for driving enlightened shareholder value. At many leading corporations the pieces of what is admittedly a very large and demanding puzzle are beginning to come together. The wider commitments to building engaged and inclusive relationships with employees, economic partners, the community and the environment become a means of achieving enlightened shareholder value through access to a lower cost of capital, enhanced reputation, minimised risks and new business opportunities.

The impact of the adoption of corporate commitments to wider forms of social and environmental engagement and reporting will be determined essentially by initiatives of leading companies and, in turn, this will be influenced by the insistent pressures companies encounter from the market, investors and stakeholders, and the perceived commercial benefit of assuming a broader accountability. However, the role of the law and of

accounting standards in establishing a framework of accountability and management discipline is a significant factor. Historical analysis of the perception of company directors' duties, including legal interpretations, reveals much greater sympathy for corporations adopting a wider view of their responsibilities than the recently-imposed tenets of shareholder value would suggest.

CONCLUSIONS

The effective integration of corporate social and environmental responsibilities could potentially release greater value for both shareholders and wider stakeholders: moving beyond compliance, to creating new value through new products and services that meet societal needs; and collaborating to solve the complex and demanding social and environmental problems that threaten to grow beyond our control. This would provide a more vital context in which people would have greater opportunity to exercise moral values and ethical commitments. However corporations capable of working in investors', stakeholders', and society's interests in a collaborative, creative and productive way would require a further fundamental redesign of the concept of the corporation and the institution of the market. It is possible that confronting the dilemmas of social, economic and ecological survival which governments, business and communities face, will force the rethinking of corporate objectives, structures, and activities that is necessary.

BIBLIOGRAPHY

- AccountAbility. 2005. *Stakeholder Engagement Standard*. London: AccountAbility.
- AccountAbility. 2011. *AA1000 Stakeholder Engagement Standard 2011 Report*. London: AccountAbility. <http://www.accountability.org/standards/aa1000ses/index.html>
London: AccountAbility.
- Berle, A. A. 1955. *The 20th Century Capitalist Revolution*. New York: Harcourt Brace.
- Berle, A., and G. Means. 1933. *The Modern Corporation and Private Property*. New Brunswick, NJ: Transaction Publishers.
- Brundtland Commission. 1987. *Our Common Future*. Oxford: Oxford University Press.
- Calder, F., and Culverwell, M. 2005. *Following up the World Summit on Sustainable Development Commitments on Corporate Social Responsibility*. London: Royal Institute of International Affairs, Chatham House.
- Clark, M. 1916, 2005. "The Changing Basis of Economic Responsibility." *Journal of Political Economy*, 24(3): 13–19; also in T. Clarke (ed.), *Corporate Governance Critical Perspectives on Business and Management*. London: Routledge, 2005, 45–60.
- Carbon Disclosure Project, *CDP Global Forum 2011: CDP 500 Global Report*. September 2011. <https://www.cdproject.net/en-US/Pages/HomePage.aspx>.
- Certified General Accountants Association of Canada. 2005. *Measuring Up: A Study on Corporate Sustainability Reporting in Canada*. Vancouver: CGA.
- Christian Aid. 2004. *Behind the Mask: The Real Face of Corporate Social Responsibility*. London: Christian Aid.
- Corporate Responsibility Coalition. 2011. "Towards an Effective UK Regime for Environmental and Social Reporting by Companies." <http://corporate-responsibility.org/wp/wp-content/uploads/2011/05/Simply-Put.pdf>.
- Company Law Review Steering Group (CLR). 2000. *Modern Company Law for a Competitive Economy: Developing the Framework*. London: Department of Trade and Industry.
- Company Law Review Steering Group (CLR). 2006. *Duties of Company Directors*. London: Department of Trade and Industry. <http://www.berr.gov.uk/files/file40139.pdf>.
- Doane, D. 2005. "The Myth of CSR." *Stanford Social Innovation Review*, Stanford University Graduate School of Business, fall: 23–29.
- Dodd, E. M. 1932, 2005. "For Whom Are Corporate Managers Trustees?" *Harvard Law Review* 45: 1145; in T. Clarke (ed.), *Corporate Governance Critical Perspectives on Business and Management*. London: Routledge, 61–75.
- Donaldson, T., and Thomas W. Dunfee. 1994. "Toward a Unified Conception of Business Ethics: Integrative Social Contracts Theory." *Academy of Management Review* 19 (2): 252–284.
- EIU (2005) *The Importance of Corporate Responsibility*. White Paper, London: Economist Intelligence Unit Ltd.
- European Commission. 2003. *Corporate Social Responsibility: A Business Contribution to Sustainable Development*. Brussels: European Union.
- European Commission. 2004. *Corporate Social Responsibility: National Public Policies in the European Union*. Brussels: European Union.
- European Commission. 2009. *Review of the EU Sustainable Development Strategy (EU SDS)*. <http://ec.europa.eu/environment/eussd/>.

- Freshfields Bruckhaus Deringer. 2005. *The World Bank is Not Enough: Equator Principles Survey 2005*, part 1: *The Banks*. London: Freshfields Bruckhaus Deringer.
- Global Reporting Initiative (GRI). 2002. *Sustainability Reporting Guidelines*. Amsterdam: GRI. www.globalreporting.org.
- Global Reporting Initiative (GRI). 2011. *Current Priorities*. Amsterdam: GRI. <http://www.globalreporting.org/CurrentPriorities/>.
- Hemphill, T. A., and W. Lillevik. 2011. "The Global Economic Ethic Manifesto: Implementing a Moral Values Foundation in the Multinational Enterprise." *Journal of Business Ethics* 101: 213–230.
- Jones, Thomas M. 1995. "Instrumental Stakeholder Theory: A Synthesis of Ethics and Economics." *Academy of Management Review* 20 (2): 404–437.
- Jordi, C. L. 2010. "Rethinking the Firm's Mission and Purpose." *European Management Review* 7: 195–204.
- Kennedy School of Government Corporate Responsibility Initiative. 2004. "Leadership, Accountability and Partnership: Critical Trends and Issues in Corporate Social Responsibility." Report of Launch Event March 4, Harvard University.
- Kennedy School of Government Corporate Responsibility Initiative. 2011. "A New Model for Responsible Business." Harvard University.
- KPMG. 2005. *International Survey of Corporate Responsibility Reporting*. Accessed June, KPMG, www.kpmg.com.
- KPMG. 2008. *International Survey of Corporate Responsibility Reporting*. <http://wcom/CN/en/IssuesAndInsights/ArticlesPublications/Documents/Corporate-responsibilitywww.kpmg.-survey-200810-o.pdf>.
- Kung, H. 2009. "The Global Economic Crisis Requires A Global Economic Ethic: The Manifesto for a Global Ethic." Symposium on the Global Economic Ethic, United Nations, 6 October.
- Lan, L. L., and L. Heracleous. 2010. "Rethinking Agency Theory: the View from Law." *Academy of Management Review* 35: 294–314.
- McKague, K., and Cragg, W. 2005. "Compendium of Ethics Codes and Instruments of Corporate Responsibility," September, Schulich Business School, York University, Canada.
- Mitchell, L. A. 2001. *Corporate Irresponsibility: America's Newest Export*. New Haven, CT: Yale University Press.
- Najam, A. 2000. "World Business Council for Sustainable Development: The Greening of Business or a Greenwash?" *Yearbook of International Cooperation on Environment and Development 1999/2000*.
- OECD Insights - Sustainable Development: Linking Economy, Society, Environment ISBN 978-92-64-055742 © OECD 2008. <http://www.oecd.org/dataoecd/40/41/41773991.pdf>. All publications from OECD on sustainability http://www.oecd.org/document/8/0,3746,en_2649_37425_46531208_1_1_1_37425,00.html.
- OECD Guidance on Sustainability Impact Assessment Report 2010. http://www.oecd.org/document/8/0,3746,en_2649_37425_46531208_1_1_1_37425,00.html.
- OECD 2008 Annual Report on Sustainable Development Work in the OECD. http://www.oecd.org/document/8/0,3746,en_2649_37425_46531208_1_1_1_37425,00.html.

- OECD Energy for Sustainable Development 2007. http://www.oecd.org/document/8/0,3746,en_2649_37425_46531208_1_1_1_37425,00.html.
- Redmond, P. 2005. *Companies and Securities Law: Commentary and Materials*. Sydney: Thomson Lawbook, LBC.
- Segrestin, B., and A. Hatchuel. 2011. "Beyond Agency Theory, a Post-crisis View of Corporate Law." *British Journal of Management* 22: 484–499.
- Solomon, R. C. 1992. "Corporate Roles, Personal Virtues: An Aristotelian Approach to Business Ethics." *Business Ethics Quarterly* 2 (3): 317–339.
- SustainAbility. 2005. *The Changing Landscape of Liability: A Director's Guide to Trends in Corporate Environmental, Social and Economic Liability*. London: SustainAbility.
- SustainAbility Global Economic Recovery and Sustainability Survey 2011.
- Teck Corp Ltd v. Millar. 1973. *Delaware Law Review* 33, (3d).
- UNEP Finance Initiative: Innovative Financing for Sustainability: *The Working Capital Report 2007*. <http://www.unpri.org/twcr/>.
- UN. 2011. *Global Compact*. Geneva: UN. <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>.
- UN Global Reporting Initiative <http://www.globalreporting.org/Home>.
- UNEP Finance Initiative. 2004. *The Materiality of Social, Environmental and Governance Issues to Equity Pricing*. Geneva: UNEP.
- UNEP Finance Initiative. 2005. *CEO Briefing on the Future of Climate Change Policy: The Financial Sector Perspective*. Geneva: UNEP.
- Vogel, D. 2005. *The Market for Virtue: The Potential and Limits of Corporate Social Responsibility*. Washington, DC: Brookings Institute.
- Wedderburn, W. 1985. "The Social Responsibility of Companies," Southey Memorial Lecture 1984. *Melbourne University Law Review* 15: 4.
- World Bank Group. 2009. IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information: Report on the First Three Years of Application. *Leadership in Sustainability and Corporate Governance*. <http://www.ifc.org/sustainability/>.
- World Business Council for Sustainable Development. 2002. *Corporate Social Responsibility: The WBCSD's Journey*, WBCSD.
- World Business Council for Sustainable Development. 2004. *Running the Risk*, WBCSD. World Commission on the Social Dimension of Globalisation, *A Fair Globalisation: Creating Opportunities for All*. Geneva: International Labour Office. 2004.
- World Business Council for Sustainable Development. 2009. *Review of the EU Sustainable Development Strategy (EU SDS)*. Geneva: International Labour Office, 2004. <http://ec.europa.eu/environment/eussd/>.
- World Business Council for Sustainable Development. 2011. *Global Corporate Citizenship Initiative: Redefining the Future of Growth: The New Sustainability Champions*. Geneva: International Labour Office.
- World Economic Forum. 2005. *Mainstreaming Responsible Investment*. World Economic Forum.

>> The balance of pursuing market opportunities while maintaining accountability and ethical integrity has proved a defining challenge for business enterprise since the arrival of the joint-stock company in the early years of industrialism. The accountability and responsibility of business enterprise is constantly subject to question. The manifest failures of corporate governance and business ethics in the global financial crisis has increased the urgency of the search for a better ethical framework and governance for business. A substantial increase in the range, significance and impact of corporate social and environmental initiatives in recent years suggests the growing materiality of a more ethically-informed approach. However challenging the prospects, there are growing indications of large corporations taking their social and environmental responsibilities more seriously, and of these issues becoming more critical in the business agenda.

THOMAS CLARKE

University of Technology, Sydney

GENDER, LEADERSHIP AND ORGANIZATION

Mollie Painter-Morland

INTRODUCTION

In this chapter, the topic of gender discrimination within the realm of organizational leadership is approached in a very specific way. We will not be exploring the various normative frameworks that could support equality in the workplace, such as appeals to basic human rights, social contracts, deontological duties or utilitarian concerns. Instead, we will seek to understand the tacit gender prejudices inherent in organizational practices and the embodied effects of such prejudices for the individuals involved. We will find that despite an overt acknowledgement of equal rights and opportunities, many women and men still experience very real barriers in terms of their access to leadership opportunities. In many cases, the so-called “glass ceiling” or as the metaphor has recently been recast, the “leaking pipe-line” (PricewaterhouseCoopers 2007), cannot be explained by the existence of discriminatory policies. Instead, we will investigate the subtle gendered prejudices and expectations about how women and men lead that lie at the heart of the challenges many individuals face in finding their leadership role in organizations.

We will see that these tacit prejudices and expectations are institutionalized in everyday practices and eventually shape individuals’

embodied existence within organizations. This may cause some women, and some men who fail to conform to gender stereotypes, to feel the urge to leave the organization, refuse leadership positions, or take them on with great discomfort and difficulty. In this chapter, the implications that the interplay between gender and organizational practices has for leadership are unpacked, and alternative leadership models and gender inclusive strategies of resistance and change are explored.

APPROACHES TO SEXUAL DIFFERENCE AND ITS IMPLICATIONS FOR LEADERSHIP THEORY

Within the feminist literature, there have been a number of approaches to understanding the differences between men and women and addressing matters of equality and opportunity. In this section, we try to draw out the implications that each of these approaches could have for leadership theory. It will become clear that our beliefs about the origins and manifestation of sexual differences has implications for our thinking about the leadership role(s) women and men can play in organizations.

For instance, Elizabeth Grosz (2005, 6) distinguishes between “egalitarian feminists” and “difference feminists.” Egalitarian feminists were concerned with exposing the injustices of patriarchal societies, and fighting for equal rights and opportunities for men and women. They exposed the way in which sexist prejudices institutionalized inequality, and perpetuated the marginalization of women in society. They claimed equal opportunities for women by arguing that men and women were the bearers of equal human rights and dignity. The gains that these early feminists have made are evident in the fact that at least on paper, most organizations claim to uphold equality in the workplace and have institutionalized non-discrimination policies on the basis of sex, race, or sexual preference. However, the acknowledgment of equality on the basis

of abstract principles of human dignity and respect did not come without a price. In the first place, it made it possible for organizations to overtly claim principled acquiescence with the idea of human rights, dignity and equality, while tacitly perpetuating some of their established practices and prejudices institutionally. Secondly, the fact that the discourse is centered on “equality” made it difficult for women to lobby around issues specific to women in the workplace, out of fear that this might undermine the argument that they are essentially “the same” as men. This approach therefore cannot account for women’s unique contributions to their organizations and society in general. Furthermore, the importance of the very real fight against oppression cannot be recognized or acknowledged from this perspective (Ely and Padavic 2007, 1126).

The subtle gendered prejudices and expectations about how women and men lead lie at the heart of the challenges many individuals face in finding their leadership role in organizations

In the leadership realm, the “equality” discourse often confronted women with the challenge to “do as men have always done,” or better. As such, they had to adopt leadership practices that existed within the patriarchal organizations in which they found themselves. In the process these female pioneers often unwittingly perpetuated predominantly “male” leadership stereotypes. While these equality-feminists succeeded in making the argument for equal rights and opportunities, their efforts did not allow women to develop their individual leadership styles, nor did they challenge existing stereotypes about leadership.

An alternative approach to feminism is to insist on respect for the differences between men and women, and an appreciation of the unique role that women could play in the workplace. Feminists who have adopted

this approach include important figures like Carol Gilligan, Nancy Hartsock and Nancy Chodorow. These women emphasized the social and psychological specificities of the feminine gender identity as well as the way it shapes individuals' perspective on their role in society. They argue that women have their own unique "voice" or perspective that should be included within societal discourses. From the perspective of these "feminists of difference," it was possible to argue that the unique capacities, traits and predispositions of women were "functional" in terms of supplementing gaps that were typically present within the existing leadership corps (Ely and Padavic 2007, 1125).

The problem with this approach is that it tends to set up essentialist dichotomies between men and women. For instance, it contends that women are more caring, more communicative, and more cooperative than men. Surveys, like that used by the International Women's Forum in 1984, tended to solidify existing gender biases in their categorization of traits that respondents identified within themselves. In these surveys, female traits included being excitable, gentle, emotional, submissive, sentimental, understanding, compassionate, sensitive and dependent. Male traits included being dominant, aggressive, tough, assertive, autocratic, analytical, competitive and independent. Being adaptive, tactful, sincere, conscientious, reliable, predictable, systematic and efficient were considered gender-neutral traits (Rosener 2011, 29).

An unfortunate consequence of this essentialist approach is that women are always associated with the inferior characteristic of the binary opposition: women are emotional, not rational, women are impulsive, not goal-directed, etc. Empirical studies suggest that most respondents regard the various stereotypical male leadership traits as typical of the behavior of a "good manager" (Gmür 2006, 116). Out of the number of ideal managerial traits only two "feminine" traits are considered desirable for managers, i.e. being "adept at dealing with people" and "cooperative."

All the other ideal traits, like being analytical, competent, confident, convincing, decisive, efficient, fore-sighted, independent etc. are associated with the male stereotype. We will attend to these gendered stereotypes in more detail in section three.

Unfortunately these prejudices have been uncritically absorbed into some business ethics discourses. This has led to the claim that feminist ethics essentially pursues “care ethics.” Borgerson (2007, 485) has commented on the problematic conflation between feminist ethics and care ethics within the business ethics literature. She (2007, 488) points out that business ethics textbooks like that of Crane and Matten (Oxford University Press, 2004), describe “care ethics” as a feminine approach that solves ethical problems through “intuition” and “personal subjective assessment.” Though Borgerson does not deny that certain articulations of care ethics display feminist concerns, she argues that the association of care ethics with feminism tends to essentialize the gendered experience. Because of this, a proper understanding of the causes of gender prejudices and marginalizing practices is never developed. She also points out that there are other “caring” ethical approaches, which are not at all feminist in orientation, such as that of Emmanuel Levinas and other philosophers working on what can be described as an “ethics of proximity.”

It is clear that both egalitarian feminism and difference feminism fail to address the origins of the stereotypes that exist about men and women. An important question that animated feminist discourses is whether the differences between men and women were the result of nature or nurture, or both. In other words, are men and women determined by their biology or are they shaped by their personal circumstances and their cultural and social milieu? In order to address these issues, many feminists invested considerable energy into making the case for a distinction between sex and gender. While sex refers to those aspects of physiology and anatomy

that are biologically determined, gender is not. "Gender" is the result of early childhood experiences, societal dynamics, power interests, organizational politics and the social constructions that are inevitably part of all these spheres of life (Ridgeway and Cornell cited in Ely and Padavic 2007, 1128). The same goes for the distinction between female and feminine. The fact that many individuals are born "female" does not necessarily mean that they will necessarily conform to stereotypically feminine ways of being and operating in the world. The powerful implications of this distinction lie in the fact that though we may all be born with specific biological sexual characteristics, much can be changed in the way our gender predispositions develop as we grow older and function within society.

SOCIAL CONSTRUCTIONS AND "THE LIVED BODY"

Helpful as the distinction between sex and gender, female and feminine may be, acknowledging "gender" as a social construction may not take us far enough. In fact, the distinction between sex and gender may rely on an uncritical acceptance of the dichotomy between nature and culture, which posits the body as a fixed entity. As a result, we may underestimate how institutional practices of socializing and enculturation, i.e. everyday habits, impact on our bodies and our physical experience of our world.

The limits of viewing gender primarily as a social construction lie in its incapacity to acknowledge the material reality of being a woman or a man in an organizational context. Here, the work of feminists such as Judith Butler, Iris Marion Young and Elizabeth Grosz becomes invaluable. They help us understand that though we might readily agree that gender is a social construction solidified through discourses and practices, we should not underestimate the fact that these discourses and practices have very real effects on the body. In *Gender Trouble*, Judith Butler (1990) has

convincingly argued that gender is a social performance, and that the sexed body is derived from such social performativity. Gender is therefore not a mere linguistic term that denotes social and cultural perceptions; instead, it is enacted within real-life practices, and as such, physical changes and adjustments in bodily comportment occur incrementally over time.

In her seminal essay “Throwing like a girl,” Iris Young (2005) argues convincingly that the way in which women use their bodies, or develop their physical motor skills, has everything to do with how they are physically oriented in the world from a very early age. Girls are often told that they are fragile, may get hurt more easily than boys, that they must seek help when facing physical challenges, or avoid it altogether. As such, they experience the world as a more threatening place, leading to a distinct type of bodily comportment, like keeping their legs close together when sitting or walking, crossing their arms protectively across their breasts, or carrying objects close to their bodies. They also develop patterns of cooperation rather than competition. These practices are not merely social in nature, they lead to real changes in women’s bodies and ways of being in the world.

This however need not lead to deterministic or essentialistic conclusions about men and women. Young (2005) argues that we have to understand the interplay between facticity and freedom. Facticity refers to those biological traits and predispositions that we are born with and which develop as part of our physical existence over time, whereas freedom involves the projects that we select to pursue throughout our lives. Both are involved in our embodied experience and actions in the world. Young (2004) employs Toril Moi’s alternative to the construct of gender: the so-called “lived body.” She defines it as: “a unified idea of a physical body acting and experiencing in a specific socio-cultural context; it is the body-in-situation.” Moi disputes the clear distinction between nature and

culture by arguing that the lived body is always encultured. According to Young each individual has the ontological freedom to respond to her facticity, to construct and express herself through her projects. Through her accomplishments, it becomes possible to transform her surroundings and relationships, often in cooperation with others. However, the unfortunate reality is that many individuals experience situations in which their surroundings make them feel distinctly uncomfortable.

The construct of the “lived body” allows us to make very distinct gains: it undermines the nature versus culture dichotomy and also takes us beyond essentialist gender binaries by creating spaces for ontological freedom that could function in our design of our life project(s). However, Young argues that this does not mean that we should give up the concept of gender, since it plays an important part in social structures and their implications for creating or curtailing people’s freedoms to pursue their life projects. “Gender” is a conceptual tool that allows us to describe and diagnose the way in which the differences between men and women, and their relationships with one another, are institutionalized. As such, it also creates the conceptual space from within which these stereotypes can be challenged.

The value of combining the construct of the lived body with the concept of gender is that it allows us to pose a series of questions on various levels. On the one hand, gender constructs help us unpack the assumptions that underpin certain leadership expectations that exist in organizations, as well as the prejudices to which they give rise. What we may discover is that a series of binaries are mapped onto male and female bodies in a way that makes it very difficult for individuals to develop patterns that fall outside the stereotypical gender molds. However, without the category of gender, it becomes next to impossible to diagnose the problem and describe it in any meaningful way. One has to refer to the gendered male/female stereotypes to describe their operation in practice.

Such descriptions allow resistance to emerge. We may therefore do well to explore the way in which male and female characteristics play out within their institutional leadership roles, in order to explore the assumptions and prejudices that support it. This may allow us to explore different models and practices by which to incrementally modify the lived experience of both men and women.

“Gender” is a conceptual tool that allows us to describe and diagnose the way in which the differences between men and women, and their relationships with one another, are institutionalized

GENDER CONSTRUCTS IN ORGANIZATIONAL LEADERSHIP AND IMPLICATIONS FOR THE LIVED BODY

One of the central assumptions that have become institutionalized within many organizational practices is the notion that women are society's care-takers. This care-taking takes place primarily as unpaid labor within the private sphere (Young 2005). In the workplace this manifests in the designation of any kind of job that requires care of individuals' bodily, emotional or domestic needs as “female jobs,” with a concomitant expectation of it being compensated at a lower level. Since there is general acceptance that leadership positions within organizations typically go beyond care-taking towards roles that require strong direction, control and agency, women may often be excluded from consideration for such opportunities.

It comes as no surprise that gendered modes of leadership are described as either “agentic” or “communal” (Eagly and Carli 2007, 68). Women's concern for treating others compassionately is thought to display a communal orientation, whereas men's agentic orientation makes them

more capable of assertion and control. When women display the traits of the communal orientation, such as being affectionate, helpful, friendly, kind, and sympathetic, as well as interpersonally sensitive, gentle, and soft-spoken, they are seen as not agentic enough and hence not capable of leadership. But when they display the agentic behaviors, i.e. aggressive, ambitious, dominant, self-confident, and forceful, as well as self-reliant and individualistic, they are seen as not communal enough, and they tend to be accused of inauthenticity.

In terms of leadership research, a gendered binary also seems to be operative in the distinction between an “entity” approach that offers a “realist” perspective on leadership, and a more “relational” approach that offers a “constructivist” perspective. Uhl-Bien (2011) associates the realism/entity approach as more masculine in orientation and the constructionist/relational approach as more feminine. The “realist” approach focuses on individuals and their views regarding participation in interpersonal relationships. By contrast, the relational perspective is primarily concerned with being-in-relation and moving away from hierarchical control (Uhl-Bien 2011, 67).

A further gendered dichotomy in the leadership realm is that between so-called “transactional” and “transformational” leadership styles. Men’s leadership styles are regularly described as transactional, whereas women leaders are often seen as more transformational in orientation. Transformational leadership is described as a relationship of mutual stimulation between leaders and followers, which converts followers into leaders and also has the capacity to make leaders moral agents (Werhane 2011, 44). It has been argued that women’s capacity to inspire and motivate staff is a result of their enhanced interpersonal skills. Further characteristics that supposedly make women better transformational leaders than men include their willingness to share power and information, their tendency to encourage participation and inclusion,

their propensity to instill a sense of self-worth in others and their ability to get employees energized and excited about their work (Psychogios 2007, 174). Rosener (2011, 28) reports that women are more likely to use power that is based on charisma, work record and contacts than power based on organizational position and the ability to reward and punish others. Women successfully employ interactive leadership strategies, which entail encouraging participation, sharing power and information, and enhancing the self-worth of others (Rosener 2011, 21–24). Unfortunately, the fact that women are considered to be more natural transformational leaders does not always serve them well in organizations. Reuvers et al. (2008) has found that if men display the traits of transformative leadership, it has a far greater effect on innovation than if women display these same traits. Psychogios (2007) comes to the even more disconcerting conclusion that “feminized management” tends to aggravate the exploitation of female labor instead of creating new management opportunities for women. His research shows that if occupations are “feminized” there is a corresponding decline in salaries and wages.

According to Rosener (2011) transformational leadership cannot be exclusively associated with women: some women succeed by adhering to the traditional male model, whilst some men adopt a transformational leadership style. Both men and women describe themselves as having a mix of “female,” “male” and “gender neutral” traits (Rosener 2011, 28). However, this does not mean that many women do not identify with gender stereotypes and employ them in their self-descriptions. For instance, further support for associating specific leadership characteristics with the feminine can be found in Nicola Pless’s (2006, 248) account of the self-description of Anita Roddick, founder and former CEO of the Body Shop. Roddick personally claimed that: “I run my company according to feminine principles ... principles of caring, making intuitive decisions, not getting hung up on hierarchy...”

Unfortunately, many prejudices are perpetuated in and through these gender stereotypes, with real effects on men and women in the workplace. In a recent *Harvard Business Review* article, Hermina Ibarra and Otilia Obodaru (2009), discuss the research finding that women lack “vision.” They explore the puzzling fact that studies have shown that women out-perform men on all the leadership attributes considered important by respondents, except when it comes to envisioning. In the INSEAD study on which Ibarra and Obodaru (2009) reported, vision was defined as the skill to recognize new opportunities within the environment and to determine a strategic direction for the organization. In terms of leadership practice it seems as if the intuitive reading of opportunities within the environment becomes less important than the second aspect of the definition, i.e. determining a strategic direction. Ibarra and Obodaru (2009, 67–68) attribute the perception that women are weaker at “envisioning” than men to the fact that women may think differently about “vision.” Female executives insist that for them, strategy emerges in and through a commitment to detail and a very hands-on approach to the implementation of action plans. They are less prone to the formulation of lofty ideals and “big ideas,” or experiments with “big, hairy audacious goals,” as Collins and Porras (2002) refer to it. This may be explained by the fact that many women have a fear of over-promising and under-delivering, whereas men tend not to have the same reservations. Again, girls’ early experience of the world as a more threatening place may go some way towards explaining this difference in thinking about what “vision” means. What emerges clearly from this analysis, is an awareness of the tacit gendered assumptions about “vision.” In practice, these tacit assumptions may have a very negative impact on how women are perceived as leaders. Holt et al. (2009) explain that the capacity to articulate a clear vision for the organization is strongly associated with the credibility of a leader. If women are not perceived as “visionary” leaders, they may not be perceived as credible either.

Gendered assumptions are also evident in the way people talk about what they expect from their leaders and from themselves as leaders. In a study conducted by Metcalfe and Linstead (2003, 110) the researchers found that the leadership style of one of their female subjects was described by her colleagues and staff as “masculine” and “authoritarian.” Not surprising, they argue, if one considers the remnants of the masculinist discourse in words like “man-ager.” In her description of herself, Nia displays contradictory views on the role that femininity plays in leadership, which serves to downplay the importance of her feminine traits. Instead, she re-inscribes masculine leadership models in the way she talks about her successes and difficulties. This case demonstrates how difficult it is to develop an alternative discourse on leadership. It also suggests that, in-and-of-itself, a linguistic analysis of this problem is unlikely to precipitate the desired change. More thought needs to be given to how the embodied reality of men and women and their ability to resist the gendered stereotyping of leadership are circumscribed and curtailed by these discourses.

Many prejudices are perpetuated in and through these gender stereotypes, with real effects on men and women in the workplace

According to Ely and Padavic (2007, 1129) masculinity and femininity are embodied realities as well as belief systems. It is evident in the muscle tensions and body postures that men and women display, and as such, contribute to a further solidification of gender stereotypes. For instance, “style constraints,” pertaining to their way of speaking, gestures and appearance, is a reality that many female executives have to deal with (Eagly and Carli 2007, 64). These constraints impact on the way women can communicate and conduct themselves within everyday business interactions. Women often feel that their less assertive speaking style or

hand-gestures may be deemed inappropriate. Disconcertingly, 34% of African American women feel that their physical appearance is more crucial in attaining career success than their actual abilities (Hewlett et al. 2005).

It is also interesting to analyze the way in which people's clothing and accessories both express and re-inscribe their own personal reading of the power dynamics and expectations within an institution. Women leaders tend to wear corporate suits to suggest formality and control—traits that are often associated with the stereotypical male leader. Wearing high heels and walking with a certain confident stride suggests the power and competence that are assumed to be the ideal characteristics of leaders. In men, suits and ties are carefully chosen to tap into specific states of mind, based on the theory that certain colors signify confidence and calm composure. In her essay, "Women recovering our clothes," Young (2005) discusses the split image that results from women seeing themselves, while at the same time being aware of others looking at them. This split image often gives rise to a complex self-conception involving several different images—not all of them always of a woman's own making. For instance, a woman might imagine that she is seen in a particular way when wearing certain clothes, which may or may not be how she imagines herself to be. Clothing and accessories become various kinds of prostheses that allow us to fashion ourselves to the dominant aesthetic as we experience it. In effect we extend and amend our embodiment in response to tacit messages about what is considered "appropriate" within organizational contexts. The question is who and what informs this dominant aesthetic, and what are the ethical implications of this fashioning? Some feminists resist the objectifying and fetishizing implications of women living "in the male gaze." However, in the leadership realm, this could have further discriminating effects. Could women's mirroring of male attire in the workplace be a tacit acceptance of the fact that men are more desirable leaders than women, that they are

more powerful, more in control, more reliable? If so, everyday dress-code could contain the clues as to why gender prejudices persist in the workplace.

But how is it possible to resist conforming to the tacit expectations we experience in the workplace and to eventually change the stylized practices that perpetuate prejudices? In the next section, we explore alternative leadership models and seek to reconceptualize certain important gendered notions within the leadership realm.

POTENTIAL SITES AND VISIONS OF CHANGE

In this section, we will investigate whether it is possible to transform leadership theory and practice through an engagement with the many different ways in which both men and women approach their leadership roles in organizations. What seems to be required is leadership models that allow individuals to lead in their own unique ways, instead of conforming to some pre-conceived gender expectations. We will therefore explore theoretical models that may create a framework for understanding and adopting uniquely individual leadership styles. In the process, we hope to recast important leadership notions, such as “authenticity” and “vision,” in more gender-inclusive terms.

Systemic leadership

In a recent publication entitled: *Leadership, Gender, and Organizations* (Werhane and Painter-Morland 2011), a number of scholars related recent developments in relational leadership or complexity leadership to the way women lead in organizations. One of the interesting points made by these scholars is that even though complexity leadership seems to describe

leadership styles that are associated with the socially constructed “feminine” style of leadership, it is a model that suits many men’s leadership preferences as well.

From the perspective of systemic leadership, leadership is not necessarily restricted to individuals appointed to positions of authority. In this respect, it represents a significant departure from so-called “great man theories” about leadership, with their implicit sexist assumptions. Systemic leadership is informed and supported by a variety of discourses—from Peter Senge’s work on organizational learning and change to Karl Weick’s sense-making theories. The basic contention is that an organization cannot properly learn, change or create meaning without the sharing of information and cooperative agreements. Senge and Kaufer (2000) speak about “communities of leaders,” while others make reference to “distributed leadership” (Friedman 2004), or relational leadership (Maak and Pless 2006).

An influential definition of systemic leadership is provided by Collier and Esteban (2000, 208) who describe leadership as “the systemic capability, distributed and nurtured throughout the organization, of finding organizational direction and generating renewal by harnessing creativity and innovation.” Understanding leadership as an emergent, interactive and dynamic property allows one to distribute leadership responsibilities and privileges throughout an organization’s workforce (Edgeman and Scherer, 1999). Systemic leadership involves a number of different leadership dynamics. Uhl-Bien, Marion and McKelvey (2007, 311) describe these as “administrative,” “adaptive” and “enabling” leadership. Administrative leaders play the more formal leadership roles of planning and coordinating organizational activities. It is important to note that though systemic leadership functions are understood in more distributed terms, this does not necessarily mean that formal leadership positions and hierarchies become redundant or have to be abolished. In fact, it is

very important that gender-sensitivity is encouraged in and through key managerial tasks, such as setting performance targets, conducting performance reviews, and performing mentoring activities. As such, it is important that those appointed to formal leadership positions are gender-sensitive and play an active role in thinking through the gender implications of their everyday business decisions. Guaranteeing flexible work schedules and childcare facilities for both working mothers and fathers can go a long way towards distributing the childcare responsibilities more equitably. Setting realistic performance targets for the promotion and retention of female leaders, committing to a certain number of female candidates for each leadership vacancy, considering the composition of selection teams and communicating leadership opportunities more transparently have all been mentioned as ways in which management buy-in and commitment to women's leadership can be communicated (PricewaterhouseCoopers 2007). Mentoring has also been identified as an extremely important factor in the success of women leaders, and both male and female executives must commit to providing it (PricewaterhouseCoopers, 2007).

Important as the role of administrative leaders may be, real change in practices and belief systems requires the acknowledgement and nurturing of other leadership roles. So-called "adaptive" leadership functions as a "collaborative change movement" that allows adaptive outcomes to emerge in a nonlinear fashion as a result of the dynamic interactions of interdependent agents. The direction and priorities that guide an organization's activities therefore develop inadvertently as an unforeseen and unforeseeable consequence of the daily interactions between many different members of the organization instead of emanating from those at the top of the managerial hierarchy. This approach allows any member of an organization to take initiative and responsibility (i.e. assume a leading role) when and where the situation calls for it. It allows individuals to harness their personal strengths to lead in their own, unique ways.

Adaptive leadership does not mimic stereotypical leadership behaviors, but instead requires a unique response tailored to a specific situation and set of relationships. In this respect it allows women leaders more scope to develop their style of leadership. The challenge however lies in acknowledging this kind of leadership, and not exploiting adaptive leaders by appropriating the positive results of their efforts without any recognition or compensations. Unfortunately, this is what often happens to female leaders who fulfill leadership tasks spontaneously without demanding recognition.

It is important that those appointed to formal leadership positions are gender-sensitive and play an active role in thinking through the gender implications of their everyday business decisions

The third leadership role that Uhl-Bien et al. (2007) refer to is that of “enabling” leadership, which provides the catalyst to facilitate the emergence of adaptive leadership within organizations. It often involves a complex interplay between administrative and adaptive leadership. Enabling leadership often does require some authority, but also entails an active involvement in the boundary situations that organizational members confront. Enabling leaders must be capable of engaging in cooperative strategies, fostering interaction, supporting and enhancing interdependency and stimulating the adaptive tension that allows for the emergence of new patterns. For instance, Vivienne Cox, the CEO of BP Alternative energies, described herself as a “catalyst,” who does not drive change, but allows it to emerge.

Uhl-Bien et al. (2007) make it clear that all three leadership roles necessarily coexist within organizations. The question that remains however is how adaptive and enabling leadership can be acknowledged,

recognized and remunerated within organizations. Unfortunately, it could easily become the “unpaid labor” that women and men with alternative leadership styles perform without formal recognition. As such, it could inadvertently lead to the exploitation of these individuals in the workplace. Nevertheless, the systemic leadership model is important because it challenges us to rethink certain leadership stereotypes that are often uncritically perpetuated within organizations.

Rethinking authenticity

“Authenticity” is often associated with the consistent way in which an individual acts in accordance with his or her personal traits and beliefs. In practice however, this can amount to a kind of inflexibility that renders the individual incapable of adapting to different or dynamic situations and relationships. From the perspective of systemic leadership, another understanding is required, namely that leadership roles, and hence leadership responses, are fluid. This idea is well represented in contemporary leadership literature. Porras et al. (2007, 198), for instance, explain that the best leaders realize that their role might change over time: an individual who works under your direction and supervision today might become the person to whom you report on another day. In time the same person could even become a customer or a vendor. It is important to maintain the relationship in a kind of “virtual team” even as roles change. This does not amount to “inauthenticity,” but instead requires authentic relational responsiveness. In other words, to be “authentic,” an individual has to respond appropriately to the situation as it *really* is at any given point of time. It also involves an acknowledgement that *reality*—both in terms of the relational dynamics between people in an organizational context and in any business environment in general—is not static, but always complex and dynamic.

Many women are accused of being “inauthentic” when they mimic a stereotypical male leadership style, or at least try and conform to tacit expectations about the way in which leaders ought to talk, walk and make decisions. The problem often is that women are damned if they do, and damned if they don't. If they conform to the male leadership stereotype, they are seen as inauthentic, and if they don't, their leadership is either not recognized at all, or considered inferior to that of men (Eagly and Carli 2007, 64). This is why it is so important to reconsider the meaning of “authenticity.” Women can respond quite “authentically” to the unarticulated expectations that inform one particular situation while resisting these same expectations in another. This does not amount to a lack of authenticity. Instead it is a reflection of the institutionalized prejudices to which women are regularly exposed, and the ways in which particular individuals challenge, resist and navigate them. It is important that organizations pay attention to these dynamics in order to get a better sense of the tacit practices of discrimination that inform the interactions between their members, and to look for ways to challenge and change them. From the perspective of adaptive leadership, it is important to allow individuals to draw on their own strengths, sensibilities and perspectives and to adopt their own unique style as they take responsibility and initiative in leadership roles.

The challenge for gender theorists is to simultaneously challenge socially constructed gender stereotypes and essentialist prejudices and advocate the inclusion and consideration of uniquely female perspectives in leadership discourses. To do so they are forced to argue against the rigid oversimplification of gender roles and traits, while simultaneously insisting that women can offer different perspectives and sensibilities when they are allowed to assume positions of leadership. Linstead and Pullen (2006, 1287) draw on the work of Deleuze and Guattari to address the embodied realities and social practices that perpetuate gender discrimination. This allows them to move away from gender as a social

construction, while still seeing it as a social process. More specifically, they disrupt the gender binaries by emphasizing individual differences. They argue that the variety of women's experiences must be explored. Each individual is engaged in the process of desiring-production, through which social "reality" is produced. By focusing on different interactions and connections between unique individuals over time, our attention is focused on the multiplicity that results from the conception of desire as a force of proliferation. In terms of leadership theory, this research suggests that it is important to investigate the embodied experience of individual leaders in the workplace, and explore all the different ways in which they lead. We will now proceed to explore this possibility in one specific area of leadership, namely vision, especially since this has been indicated as an area in which male leaders typically outperform their female counterparts (Ibarra and Obodaru 2009).

Rethinking vision

In section three we discussed a survey that found that many business practitioners thought women leaders lack "vision." In the course of our analysis it was suggested that because of women's propensity for cooperation, sharing information and power, and their fear of over-promising and under-delivering, they often do not claim any grand idea as the product of their own "vision." As such, women leaders may not always get the credit they deserve. One way to solve this problem is to re-conceive leadership "vision" in more gender-inclusive terms.

This could be accomplished, in part, by simply acknowledging the unique visionary contributions of women leaders. This would help to expand the way in which leadership "vision" is defined. For instance, Vivienne Cox's leadership style has been described as "organic" by those who work with her. Apparently, she designs incentives and objectives in such a way that

the organization naturally finds its own solutions and structures. She encourages everyone in the organization to be thoughtful, innovative and self-regulating. Her leadership style is collaborative, drawing on thought leaders outside of the organization and executives in other business units. Her “vision” therefore emerges through her engagements with others, rather than by means of sketching a fixed picture of what the future of the organization should look like.

This example suggests that “vision” need not be understood as the representation of an envisaged future. In fact, thinking about vision as some possible future state that must be realized fixes an organization’s operations and activities in inflexible terms. This makes it difficult for the organization’s members to respond appropriately to present or future opportunities and challenges and to properly appreciate the significance of past events. In fact, instead of “vision” with its focus on clear-sightedness, neat representations and mimetic strategies, we may do well to consider the more embodied intuitiveness that some philosophers associate with creativity and innovation. Drawing on Bergson, Deleuze (2006, 15) explains that it is up to intuition to show to intelligence which questions are not really questions, as opposed to those that deserve a response. It does this precisely because it assumes duration and offers towards this end an analytical matrix and a method to which intelligence has no access.

Visionary leadership, from this perspective, no longer requires only the capacity to be able to change one’s perspective on the world, or to change the world to fit one’s perceptions of it, but to embrace a radically new conception of time and experience (Linstead and Mullarkey 2003, 1). Reality is not stagnant, and hence leaders have to be capable of being part of, and of processing and engaging with, the qualitative variations of experiences over time and in time. Drawing on Henri Bergson, Linstead and Mullarkey (2003, 9) argue that the “*élan vital*,” the vital spirit which appears within our

organizational life, is the human impulse to organize. But since the *élan vital* is a process of creative improvisation, it does not subscribe to the typical organizational strategies of locating, dividing and controlling. These authors (idem 2003, 6) make it clear that the specialized understanding of time as measurable and representable in homogenous units does not allow us to grasp the conscious experience of duration, which is heterogeneous, qualitative and dynamic. From this perspective, something like “vision” cannot be reduced to the creation of measurable time-driven targets, as each unit of time, seen from the perspective of duration, is multiple, unique, and as such not measurable in bits and pieces.

Visionary leadership requires to embrace a radically new conception of time and experience

The kind of traits that are typically associated with inferior leadership, such as being emotional, sensitive, dependent on others, are recast as legitimate ways of operating in the leadership realm. Again here, we can find philosophical support for including these ways of being in the world in our conception of valuable leadership. Deleuze and Guattari (1996, 161) celebrate the unpredictable, uncontrollable overflow of forces that allows us an intuitive grasp of other possibilities of becoming, i.e. different ways of being in the world, and as such, different ways of “leading.” Whereas “effective” visionary leadership may direct the course of individuals or organizations to a predetermined goal based on representations, *affective* envisioning draws on that which is not yet evident within the established order, and hence, cannot be represented. This kind of envisioning draws on forces that exist but remain imperceptible. Deleuze and Guattari (1996, 161) often draw on Uexküll’s example of the tick, which is blind, deaf and mute, yet is capable of determining its direction quite accurately. The tick is responding to the perceptual signs and significances of its *Umwelt*. There are no direct causal factors that cause the tick to act, but instead a

creative response to a complex range of embodied perceptions. A leader's perception of the direction in which his/her organization is moving emerge from her/his immersion in relationships, participation in society, experimentation with multi-disciplinary insights, and an ongoing openness towards what he/she is becoming in the process. What all of this points towards is the need to develop embodied practices of resistance in our organizations that challenge gender prejudices and expand our conception of good leadership.

CONCLUSION

In this chapter, it has become clear that the origins of discriminatory practices in organizations lie hidden in our everyday practices, habits and interactions. There is no doubt that gender stereotypes are alive and well in organizations, and that addressing these prejudices is by no means an easy task. In the first place, one has to acknowledge the ingrained social practices and beliefs about the capabilities of both men and women, which play a role from a very early age and are solidified in our workplaces. To address these prejudices, we all have to start thinking about the feedback and advice we provide to our children and students in the course of their early development and education. Within organizations, we have to develop new role models and seek out mentors who have found their own unique leadership styles. Most importantly, we have to start paying attention to how specific individuals have been shaped and formed through gendered practices. A large part of the work lies in no longer viewing nature and nurture as two separate processes. Instead, we need to realize that we are constantly shaping and reshaping ourselves as thinking, feeling and perceiving bodies in, and through, our everyday workplace practices.

Addressing gender in organizations therefore requires a unique type of research, i.e. the kind of research that allows us to observe people in their

various environments, track their developmental paths, and listen to their self-reflections. We also have to create a space within which different types of leadership practices could emerge. We have seen that systemic leadership models allow for a variety of leadership roles and styles to coexist in an organization. The challenge lies in acknowledging these various roles, and making sure that they do not go unrecognized or uncompensated. In the process, we may find that inspiring stories about people's authentic responses to challenges could be told. We may also notice how men and women intuitively came across visionary ideas and practices in and through their engagement with others. We need organizational environments in which people are free to become the kind of leaders that infuse the world with creative new solutions and practices. It is the possibility of continually becoming a new kind of leader that may allow both men and women to explore the full range of their individual capacities. This will most certainly enable them to serve their organizations, themselves and the broader society to the best of their multiple abilities.

BIBLIOGRAPHY

- Borgerson, Janet. 2007. "On the Harmony of Feminist Ethics and Business Ethics." *Business and Society Review* 112 (4): 477–509.
- Collier, Jane, and Rafael Esteban. 2000. "Systemic Leadership: Ethical and Effective." *The Leadership and Organizational Development Journal* 21 (4): 207–215.
- Collins, James, and Jerry I. Porras. 2002. *Built to Last: Successful Habits of Visionary Companies*. New York: Harper Business Essentials.
- Deleuze, Gilles. 2006. *Bergsonism*. New York: Zone Books.
- Deleuze, Gilles, and Felix Guattari. 1996. *What is Philosophy?* New York: Columbia University Press.
- Eagly, Alice H., and Linda L. Carli. 2007. "Women and the Labyrinth of Leadership." *Harvard Business Review*, 85 (9): 62–71.
- Edgeman, Rick L., and Franz Scherer. 1999. "Systemic Leadership via Core Value Deployment." *The Leadership and Organization Development Journal* 20 (2): 94–98.
- Ely, Robin, and Irene Padavic. 2007. "A Feminist Analysis of Organizational Research on Sex Differences." *Academy of Management Review* 32 (4): 1121–1143
- Friedman, Audrey A. 2004. "Beyond Mediocrity: Transformational Leadership within a Transactional Framework." *International Journal of Leadership Education* 7 (3): 206.
- Gatens, Moira. 2000. "Feminism as 'Password': Rethinking the 'Possible' with Spinoza and Deleuze." *Hypatia*, 15 (2): 59–75.
- Gmür, M. 2006. "The Gendered Stereotype of the 'Good Manager': Sex Role Expectations towards Male and Female Managers." *Management Review* 17 (2): 104–121.
- Grosz, Elizabeth. 1994. *Volatile Bodies. Towards a Corporeal feminism*. Bloomington, IN: Indiana University Press.
- Hewlett, S. A., C. B. Luce and C. West. 2005. "Leadership in our Midst." *Harvard Business Review* 83 (11): 74–82.
- Holt, S., R. Bjorklund and V. Green. 2009. "Leadership and Culture: Examining the Relationship between Leadership Background and Leadership Perceptions." *Journal of Global Business* 3 (3): 149–164.
- Ibarra, Herminia, and Otilia Obodaru. 2009. "Women and the Vision Thing." *Harvard Business Review* 87 (1): 62–70.
- Ibarra-Colado, E., S. R. Clegg, C. Rhodes and M. Kornberger. 2006. "The Ethics of Managerial Subjectivity." *Journal of Business Ethics* 64: 45–55.
- Linstead, Stephen, and John Mullarkey. 2003. "Time, Creativity and Culture: Introducing Bergson." *Culture and Organization* 9 (1): 3–11.
- Linstead, S., and A. Pullen. 2006. "Gender as Multiplicity: Desire, Difference and Dispersion." *Human Relations* 59 (9): 1287–1310.
- Maak, Thomas, and Nicolas M. Pless. 2006. "Responsible Leadership. A Relational Approach." In *Responsible Leadership*, edited by Thomas Maak and Nicolas Pless. London: Routledge.
- Metcalfe, B., and A. Linstead. 2003. "Gendering Teamwork: Re-Writing the Feminine." *Gender, Work and Organization* 10 (1): 94–119.
- Porras, Jerry, Stewart Emery, and Mark Thompson. 2007. *Success Built to Last: Creating a Life that Matters*. Upper Saddle River, NJ: Wharton School Publishing.

- PriceWaterhouseCoopers. 2007. "The Leaking Pipeline: Where are our Female Leaders?" Last accessed on January 3, 2011. <http://www.pwc.com/gx/en/women-at-pwc/the-leaking-pipeline.jhtml>.
- Psychogios, Alexandros G. 2007. "Towards the Transformational Leader: Addressing Women's Leadership Style in Modern Business Management." *Journal of Business and Society* 20: 160–180.
- Reuvers, M., M. L. van Engen, C. J. Vinkelburg and E. Wilson-Evered. 2008. "Transformational Leadership and Innovative Work Behavior: Exploring the Relevance of Gender Difference." *Leadership and Innovation* 17 (3): 227–241.
- Rosener, Judy B. 2011. "Ways Women lead." In *Leadership, Gender, and Organization*, edited by Patricia H. Werhane and Mollie J. Painter-Morland. Dordrecht: Springer.
- Senge, Peter, and Katrin H. Kaufer. 2000. "Communities of Leaders or No Leadership at All" In *Cutting Edge: Leadership 2000*, edited by Barbara Kellerman and Lorraine R. Matusak. College Park, MD: Center for the Advanced Study of Leadership, James MacGregor Burns Academy of Leadership.
- Uhl-Bien, Mary. 2011. "Relational Leadership and Gender: From Hierarchy to Relationality." In *Leadership, Gender, and Organization*, edited by Patricia H. Werhane and Mollie J. Painter-Morland. Dordrecht: Springer.
- Uhl-Bien, Mary, Russ Marion and Bill McKelvey. 2007. "Complexity Leadership Theory: Shifting Leadership from the Industrial Age to the Knowledge Era." *The Leadership Quarterly* 18 (4): 298–318.
- Werhane, Patricia H. 2011. "Women Leaders in a Globalized World." In *Leadership, Gender, and Organization*, edited by Patricia H. Werhane and Mollie J. Painter-Morland. Dordrecht: Springer.
- Young, Iris Marion. 2005. *On Female Body Experience: "Throwing like a Girl" and Other Essays*. New York: Oxford University Press.

>> In this chapter, the embodied and institutionalized roots of gender discrimination in the workplace are explored. The chapter draws on a variety of feminist perspectives to discuss the implications that various approaches to gender differences have for thinking about leadership in organizational contexts. It comes to the conclusion that combining insight into the embodied practices of the “lived body” with an understanding of gender as a socially-constructed notion may yield the best possible model for thinking about gender within institutions. The chapter ends with an analysis of the “systemic leadership” approach, which may provide a productive space for conceptualizing a more gender-sensitive understanding of a variety of leadership styles and practices. It also argues for a broader understanding of certain leadership characteristics, such as “vision.”

MOLLIE PAINTER-MORLAND

De Paul University, Chicago

V. ETHICS IN FINANCE

THE ETHICS OF RISK MANAGEMENT: A POST-CRISIS PERSPECTIVE

John R. Boatright

The financial crisis from which the world is slowly emerging has not only destroyed an immense amount of wealth but also profoundly impacted people's thinking about our financial system. Like the Depression of the 1930s, the crisis that commenced in 2007 has left a deep, indelible mark on the social, political, and economic fabric. This crisis has also occasioned a searching examination of its causes, remedies, and consequences. Despite an outpouring of scholarly research, journalistic reporting, government investigation and industry self-examination, much still remains uncertain about what happened and how to prevent a recurrence.

The recent financial crisis followed a very familiar script: the bursting of an asset-price bubble precipitated a near breakdown of the banking system. Such crises have occurred with relentless regularity. The book *This Time is Different: Eight Centuries of Financial Folly* (Rogoff and Reinhart 2009) amply demonstrates that financial crises are remarkably similar, even to the belief that high asset prices are justified "this time" by some new development. However, this time was different regarding a factor that did not, by itself, justify the asset price bubble but that facilitated it and contributed as well to the resulting banking crisis. That factor was *risk management*, which has come into widespread use only in the past two or three decades.

That risk management was a novel factor in the recent financial crisis is beyond dispute. The more controversial and unexamined question is whether the use (or abuse) of this valuable resource has anything to do with ethics. And if it does, what are the ethical issues in the use of risk management, and how should these ethical issues be addressed? These are the questions examined in this chapter, and because of the answers offered, ethics in the twenty-first century must take account of the need to use risk management responsibly, with attention to the possible ways in which it can be misused to devastating effect.

THE ROLE OF RISK MANAGEMENT IN THE CRISIS

Risk management in some form has always been a part of finance. J. P. Morgan once remarked, "The fact is that bankers are in the business of managing risk. Pure and simple, that is the business of banking" (Buder 2009, 143). Managing risk is also the traditional province of the insurance industry. In his book *Against the Gods: the Remarkable Story of Risk*, Peter Bernstein (1996b) dates the development of risk management to the Renaissance period with the discovery of the mathematics of probability. Despite this long history, modern risk management began around 1970 with theoretical advances in finance, including modern portfolio theory, the capital asset-pricing model, the Black-Scholes-Merton option pricing model, and the efficient market hypothesis. Building on this theory, practitioners transformed risk management in finance by developing sophisticated mathematical models for asset pricing, portfolio risk assessment, and a host of other matters. The distinctive feature of risk management in finance is the ubiquity of mathematical models of all kinds.

Risk management played a role in the recent financial crisis, first, by facilitating the construction of collateralized debt obligations or CDOs,

which are securities that bundle together large numbers of loans and divide them into tranches with different risks and rates of return. These securities would have been impossible to construct without mathematical models to determine the risks and hence the appropriate prices for individual tranches. The rating agencies relied on the same or similar models to rate these new securities. More mathematical models were needed for the construction of other exotic financial instruments, such as synthetic CDOs, which are second- and third-order derivatives based on CDOs, and credit default swaps, which are essentially insurance policies on debt instruments that can be purchased by any investor, even those who do not hold the loans or securities being insured. Not only did the major banks issue CDOs and other securities, collecting hefty fees for doing so, but they also held many of them for their own account and used credit default swaps issued by other firms to insure their positions.

A second use of risk management occurred when banks assessed the risk of their portfolios, which included large volumes of CDOs and other similar securities. Although they assumed very substantial risks by leveraging their capital—in some instances more than thirty to one—the banks were able to do so with great confidence because they measured their risks very precisely by newly-developed model-based techniques. In particular, value at risk (VaR) became a widely adopted tool for determining the risks posed by a bank's portfolio. Developed at the request of the CEO at J.P. Morgan, who wanted a single measure of the bank's total risk at the end of each trading day, VaR provided all subsequent users with a great sense of confidence that their firm's risks were being managed prudently. This sense of confidence was also shared by regulators, who, under the guidance of the Basel II Accord, set minimum capital requirements—and hence the permissible amount of leverage—on the adequacy of a banks' risk management systems. Under Basel II, this kind of risk-based regulation of capital requirements replaced a rule-based system in which fixed minimum levels were applied to all banks.

Beginning around 1995, this revolution in risk management spread beyond financial institutions and was adopted by a broad range of business firms as integrated or enterprise risk management (ERM). This new development is described by one writer as involving “the identification and assessment of the collective risks that affect firm value and the implementation of a firm-wide strategy to manage those risks” (Meulbroek 2002, 56). Guiding the development of ERM was the belief that all kinds of risks—which are commonly classified as market, credit, and operational risks—could be managed in the same way regardless of the line of business. For financial and non-financial firms alike, the goal of ERM is to maximize the value of the enterprise by shaping the firm’s risk profile. This consists of identifying all the risks faced by the firm, including their likelihood and potential costs; determining which risks to assume and which to avoid or shift; targeting an acceptable level of risk; developing a plan to keep risks within the preferred limits; and carefully monitoring the implementation of this plan. The main tools for implementing ERM are financial instruments to hedge or transfer risks, operational changes that avoid or reduce risks, and capital reserves to avoid insolvency in cases of loss due to risks.

ETHICAL ISSUES IN RISK MANAGEMENT

It seems only prudent to manage risk. This is certainly true if the only alternative is a return to the superstition and blind acceptance of fate that Bernstein describes in *Against the Gods*. The development of sophisticated risk management techniques based on a mathematical treatment of probability has been a decided boon for mankind. However, important questions can be raised about the general enterprise of risk management because, as Bernstein cautions, risk management could become “a new kind of religion, a creed that is just as implacable, confining, and arbitrary as the old” (Bernstein 1996a, 47). An overreliance

on numbers may lead to errors as serious as those committed by ancient priests who relied on omens and offerings. As Niall Ferguson (2008) has quipped, “those whom the gods want to destroy they first teach math.”

Modern risk management is a distinctive recent historical development in which certain kinds of risks are treated in a certain manner by certain actors for certain ends. There is no question that risk ought to be managed, but it matters immensely which risks are managed, by whom, with what means, and for whose benefit. In modern risk management, the risks in question are losses to a firm and its shareholders, and the risks are managed by senior managers, including, in some firms, a chief risk officer. The standard categories of market, credit, and operational risks are commonly addressed today by traditional insurance, financial instruments, operational modifications, and capital structure. The goal of modern risk management is to maximize firm value by shaping the risk profile so as to avoid or reduce some risks, transfer or hedge others, and retain those that constitute a firm’s core business or else cannot be avoided or transferred. A firm’s risk profile represents its appetite or tolerance for risk in ways that take maximum advantage of its core competencies, available capital, and overall strategy. Although risk management in some form has long been practiced, its modern form is distinguished by the systemic manner in which the categories of risks have been expanded and all risks are considered together at the highest levels of management, instead of being treated separately in “silos” by lower-level personnel. This transformation has been facilitated by developments in computers and information technology, along with theoretical advances in finance, which are the basis, in particular, of sophisticated financial instruments.

From an ethical point of view, the crucial characteristic of modern risk management is the way in which multiple risks that affect everyone in a society are made the province of corporate decision making and subjected to the conditions of decision making in such narrowly economic

enterprises. The risks of business are of concern to everyone, and yet in modern risk management, the task of identifying these risks, deciding on their treatment, and, perhaps most important of all, shaping a risk profile that reflects a firm's own risk preference are delegated by society to business corporations. Risk-management decisions inevitably involve a selection of the risks to be managed, choosing some and ignoring others; and the means chosen for managing these risks involve costs and benefits, which are distributed, often unequally, among different groups that are impacted by corporate activity. Modern risk management has arisen, in part, to meet a demand by society that business take greater responsibility for the management of risks, but this response by business has ethical implications insofar as it involves an allocation of the responsibility for managing risk between, most notably, corporations and government. The rise of modern risk management has further implications for the way in which government regulates business. Finally, questions of ethics arise about the specific techniques of risk management, especially given their central role in the recent financial crisis.

There is no question that risk ought to be managed, but it matters immensely which risks are managed, by whom, with what means, and for whose benefit

These points can be organized under three broad headings: the ethical implications of the impact on non-corporate constituencies from the adoption of modern risk management; the ethical implications of the allocation of accountability, responsibility, and regulation that such an adoption entails; and the practical application of risk-management techniques. To speak of the ethical implications in connection with risk management is not necessarily to be critical of this development, which

overall has proven very beneficial. However, these ethical implications have gone largely unidentified and unexamined, and a consideration of them is especially urgent in view of the role of risk management in the recent financial crisis.

IMPACTS ON NON-SHAREHOLDER CONSTITUENCIES

Risk management is undertaken to increase the value of a firm, with shareholders as the direct, intended beneficiaries. Although finance theory suggests that shareholders derive no benefit from the management of risk because they can adjust their own portfolios to achieve any desired risk profile, advocates of risk management cite numerous sources of added value, many of which shareholders cannot realize on their own. Chief among these sources of value creation are the contributions of risk management in limiting volatility of earnings, reducing tax liabilities, ensuring internal funds for investments, providing cost savings from managing all risks together, and lowering the amount of equity required to secure a desired credit rating. Perhaps the main source of added value, though, is the role of risk management in reducing the probability and the severity of financial distress, especially from the kind of low-probability, high-cost outcomes that produce unexpected collapses. René Stulz (1996, 24) characterizes such investments in risk management as “the purchase of well-out-of-the-money put options designed to limit downside risk.”

All corporate decisions, and not only those about risk, affect non-shareholder constituencies (which are also referred to as stakeholders). Decisions about the management of risk, especially those aimed at preventing financial distress, generally benefit non-shareholders along with the intended beneficiaries. Indeed, they may derive even greater benefit than shareholders with respect to financial distress since

shareholders with limited liability can lose only their investment whereas the losses to employees, suppliers, customers, and community members can be large and are essentially uninsurable. Despite the obvious benefits of risk management to non-shareholder constituencies, they are also liable to be harmed in some ways from a firm's risk-management activities. They suffer impacts that arguably ought to be considered in a firm's decision making. As Lisa Meulbroek (2002, 65) has written:

Risk management is not only a decision about how much risk the firm should bear, it is also a decision about how much risk the firm's customers or suppliers are prepared to bear. As a more general matter, suppliers, customers, community members, firm shareholders, and employees are all risk bearers for a firm. Managers must determine the optimal level of risk for all parties and consider not only how each individual risk affects the firm's total risk exposure, but also evaluate the optimal way of managing and distributing those risks.

Despite this argument for considering the impacts of risk management on all affected parties, firms generally practice risk management only with a view to the firm's own objective, which is to say shareholder wealth maximization.

Whether managers should consider non-shareholder constituencies in practicing risk management or, indeed, in all decision making is a question at the heart of the debate over corporate social responsibility. That debate aside, the same finance theory argument supporting the claim that shareholders are unaffected by risk decisions applies to non-shareholder constituencies inasmuch as they, too, can adjust their own financial situation to achieve a desired risk profile, or so the argument claims. Since much of the risk that they bear with a firm is non-residual in character, the argument contends that they are vulnerable only in the event of insolvency, so any risk-management activity that

affects only residual returns should leave them unaffected. This argument is even less persuasive in the case of non-shareholders than it is for shareholders not only because the costs of the possible adjustments may be very high but also because the means for making such adjustments may be unavailable. Moreover, shareholders incur their losses voluntarily and with compensation, whereas the impacts of financial distress on non-shareholder constituencies may occur without their consent and without the potential return that shareholders enjoy from the risks that are incurred by a firm. Thus, any impacts of risk- management activity on non-shareholder constituencies are causes for ethical concern, regardless of whether they ethically ought to be considered in a firm's decision making.

What specific impacts can a firm's practice of risk management have on non-shareholder constituencies? First is the obvious point that a firm identifies only those risks that create a potential loss for the firm itself and ignores any impacts that are borne solely or predominantly by other parties. This category of risks is indefinitely elastic as firms succeed in their relentless quest to externalize costs and to exploit situations of moral hazard. This category also includes systemic risk, which is not only beyond the power of any one firm to manage but is also a risk that affects all groups in an economy. In the recent financial crisis, the risks of loans, including subprime mortgages and the CDOs that were securitized from them, were of little concern to banks once these risks were transferred to other parties. The main risks that were managed were confined to the banks' own portfolios; the losses that might result from these "toxic assets" were someone else's problem. Similarly, the moral hazard that the implicit government guarantee provided to "too-big-to-fail" institutions and the systemic risk that their activities posed were opportunities to be exploited, without regard for the consequences to others.

Second, non-shareholder constituencies are affected by the means that firms select to manage risk. In broad outline, there are five kinds of

responses: a firm may *avoid* a risk entirely, for example, by not entering a certain line of business; it may seek to *reduce* a risk by taking appropriate action; the risk may be *hedged* so that a loss-inducing event is off-set by some gain; the risk may be *transferred* so that it is assumed by another party, often with compensation as in the case of purchasing insurance; or it may be *borne*. This latter response may be taken either because the risk cannot be avoided, reduced, hedged, or transferred or else because it represents a business opportunity in which the firm can profitably employ its core competencies and investment resources. Indeed, the competitive advantage of any firm lies in its ability to exploit the opportunities created by the right, carefully selected risks.

Any of these responses will have impacts on different groups, and the choices made will distribute these impacts differently. For example, a firm that avoids certain risks might deny benefits that people would otherwise enjoy, as when the uncertainties of flood damage lead insurance companies to cease issuing such policies, thereby forcing homeowners to assume that risk. A company that reduces the risk of workplace injury by making safety improvements does so in a way that benefits workers, but if it chooses instead to transfer that risk by purchasing an insurance policy, then the benefit to workers is changed. They have traded *ex ante* safety on the job for *ex post* compensation in the event of an accident, which may not be their preference. Hedging and transferring of risk are possible because the risk is assumed by parties who can, in theory, bear it more efficiently. However, the transactions in question may occur without full understanding, so that risks are assumed unknowingly and without consent. Thus, some of the risks of subprime mortgages were transferred to unwitting borrowers, who in some cases lost their life savings, and these risks were also borne by savers who were unaware that their mutual funds and pension funds contained securities backed by these same subprime mortgages. Although banks thought that they had transferred the risk of securities in their own portfolios by means of credit default

swaps, the risk returned to them—and to taxpayers!—when the issuers of these swaps were unable to pay claims.

The transfer of risk, which often occurs without much awareness or consideration, is a major development in recent history. In *The Great Risk Shift*, Jacob Hacker (2006) documents how corporations and governments are shedding many of their traditional responsibilities and putting a greater burden on ordinary people in such areas as employment, healthcare, education, and retirement, with a resulting erosion of economic security. Much of this shedding of traditional responsibilities was due to the pursuit of profit, as banks ceased to bear the risk of loans by securitizing them and collecting fees instead of interest payments, and many corporations changed the forms of their pension plans so as to shift the risk in retirement portfolios to employees. It has also been driven by an ideology of personal freedom and responsibility that would reduce the role of government in people's lives, and by a decline in large corporations as a source of support and a corresponding increase in the importance of financial markets (Davis 2009). This massive transfer of risk, whether good or bad, is certainly a fit subject for ethical examination.

A third area in which risk management has wider social impacts lies in the determination of what constitutes an acceptable level of risk. In managing risk, a firm identifies its own appetite or tolerance for risk and acts accordingly. Because shareholders generally prefer a higher level of risk than other groups do, risk-management systems, which generally lessen risks, serve to reduce conflicts between shareholders and other groups over risk preferences. However, conflicts may remain not only over the level of risk but also over the types of risk. Although individuals can respond to any chosen level of firm risk and seek to secure their own risk preferences, the opportunities are limited, so they may still bear some risks they would prefer to avoid. Moreover, this kind of self-protection may be costly.

Aside from the issue of control over the setting of an acceptable level of risk, risk management creates the possibility of a false sense of confidence that leads firms to assume too much risk and also leads the public to accept too high a level of risk as well. The existence of apparently sophisticated risk-management systems may create an illusion that all risks are understood and under control so that even a high level of risk is deemed acceptable. As Nassim Taleb (2007) has observed, the greater danger comes not from a high level of known risks but from the unknown risk of low-probability high-impact events, which are by their nature unpredictable—and hence unmanageable. So risk-management systems may themselves be a source of risk by creating a false sense of confidence that blinds managers and the public to the hazards that they actually face. There is ample evidence that the recent financial crisis occurred despite an abundance of attention to risk management. The leaders of major banks who took great risks in their portfolios were relying on sophisticated risk-management systems with such seemingly objective measures as VaR.

ACCOUNTABILITY, RESPONSIBILITY AND REGULATION

Because of the strong bearing of risk on welfare, the management of risk has always been a preeminent social concern, which historically has been the province of government (Moss 2002). Sociologists such as Ulrich Beck (1992) and Anthony Giddens (1990) developed the concept of the “risk society” in which people are obsessively concerned about safety and the future. The result has been a public demand, more insistent recently, that risks of all kinds be managed and, in particular, that business take responsibility for risk management and be held accountable for its performance. However, the business response to this demand raises ethical concerns about the legitimacy of corporations as risk managers with respect to issues of accountability and responsibility. As Michael

Power (2004, 11) observes, “Risk management is much more than a technical analytical practice; it also embodies significant values and ideals, not least of accountability and responsibility.” Since government has traditionally been the primary risk bearer for society, ethical concerns arise about the division of responsibility between government and business and also about the government regulation of business in the presence of corporate risk management.

First, the demand for accountability creates both a challenge and an opportunity for business. Although resources are required to operate risk-management systems, they serve to inspire public confidence in corporations, counter fear and suspicion of corporate activity, and defuse or deflect blame when things go wrong. Thus, risk-management systems play a valuable role in legitimizing the power of corporations (Power 2007). When such legitimacy is earned, then everyone benefits, but there is also the danger that risk-management systems serve to deceive the public by erecting a “managerial smokescreen” to maintain “myths of control and manageability” (Power 2004, 10). Risk, especially from low-probability, high-impact events is very difficult, if not impossible, to manage, but the legitimacy of business may depend on maintaining a convenient fiction of competent control. Mary Douglas and Aaron Wildavsky (1982, 1) ask, “Can we know the risk we face, now or in the future? No, we cannot: but yes, we must act as if we do.”

Second, making firms responsible for risk management has important consequences for how risk is actually managed. Large firms are bureaucratic organizations which operate with a certain organizational rationality that utilizes formalized routines, processes, and policies. Such an organization is a Procrustean bed in which to lay a risk-management system. Organizational routines, process and policies are best suited for common, well-known mishaps and malfunctions, not the kind of unknowable rare events with which risk management ought to be

concerned. The danger, therefore, is a kind of “displacement” in which firms focus on what can be managed by an organization rather than on the real sources of risk, which may, in truth, be unmanageable. Thus, Power (2004, 30) writes, “The burden of managing unknowable risks ... is replaced by an easier task which can be successfully reported to seniors.”

Risk is very difficult to manage, but the legitimacy of business may depend on maintaining a convenient fiction of competent control

Furthermore, an organizational treatment of risk necessarily involves an assignment of responsibility among the various functional units in an organization. Although firms typically claim that the management of risk is everyone’s task, this is difficult to achieve in practice, and modern integrated or enterprise risk management tends to push responsibility up to the highest levels, to senior executives who are often not equipped to evaluate the results that mathematical models generate. The danger here is that an organization may make a suboptimal distribution of responsibility in which the units with the greatest expertise in evaluating risk are not directly involved in decision making. Although modern risk management seeks to overcome the silo-treatment of risks by grouping all risk together, some silos may contain better evaluators of risk. Also, some risks may not be identified as the responsibility of any one party. One observer noted that in the recent financial crisis, the risk of CDOs was not widely recognized because they fell between market and credit risks, and the parties responsible for each of these risks thought the problem belonged to the other (Anonymous 2008).

A further feature of the organizational treatment of risk is the development of expert systems that effectively replace individual

judgment. The routines, procedures, and policies that are characteristic of organizational rationality not only may fail to focus on real sources of risk but may also prevent the intelligent assessment of information that is available. Amar Bhidé (2010) in *A Call for Judgment* warns about the overuse or misuse of mechanistic decision-making tools that are ubiquitous in modern business organizations and calls for a balanced blend in decision making of both expert systems and the seasoned judgments of individuals. He notes that the problems with subprime mortgage lending occurred after quick computer-generated approval of applicants replaced the slower, individualized assessment of loan officers. Similarly, the rating agencies relied on sophisticated mathematical models in rating CDOs without attempting an independent evaluation of the information that was available to them—much less seek out new sources of information, which they regarded as beyond their role.

Third, the adoption of risk management by business has significant consequences for government regulation in matters of risk. Moss (2002) describes government as “the ultimate risk manager.” However, government manages risk partly through direct government regulation and partly by relying on business self-regulation. Indeed, a major thrust of recent law has been a strategy by government to encourage greater business self-regulation, including the development of risk-management systems, a practice which Ayers and Braithwaite (1992) call “enforced self-regulation.” Measures such as the 1991 Federal Sentencing Guidelines for Organizations and the 2002 Sarbanes-Oxley Act have provided strong incentives for improving corporate internal control systems. As noted previously, a major incentive for banks to adopt a risk-management system has been the Basel II Accord, which recommends that capital requirements be based on the adequacy of such a system. The better the risk-management controls, the less capital a bank may be required to hold. The Basel II approach to capital standards reflects a more general shift from rule-based regulation to risk-based regulation.

Enforced self-regulation in general and risk-based regulation in particular have many advantages over the main alternative of direct government, rule-based regulation. Government is relieved of the need to formulate and enforce detailed rules; regulation is embedded in the internal corporate decision-making process in ways that align it with corporate objectives; it overcomes the information asymmetry between government and corporations and reduces the antagonistic regulator-regulatee relationship; it also places the responsibility for monitoring the risk-management function on the firm itself and assigns government regulators only the task of evaluating the quality of the risk-management system. A further advantage of risk-based regulation is that firms have flexibility to choose the means for meeting any required level of risk. For example, a firm may choose among the alternatives of improving its risk-management controls, reducing its level of risk, or increasing the amount of equity held in reserve to protect against losses.

This flexibility may also be a disadvantage, insofar as it allows firms to engage in regulatory arbitrage by choosing the most advantageous means of compliance, which may not be the most effective one from a public policy point of view. Other observers have noted that risk-based regulation may perversely lead managers to focus on using a firm's risk-management system to meet regulatory requirements instead of actually managing risk. The system is being used, in such cases, not to manage risk but to manage regulation (Haldane 2005). Along the same lines, Raghuram Rajan (2010, 140) has commented, "In many of the firms that got into trouble, risk management was used primarily for regulatory compliance rather than as an instrument of management control."

A more technical problem with risk-based regulation is the charge made by Daníelsson, Jorgensen, and de Vries (2002) that its use in regulation can affect the quality of the risk-management systems employed. They argue that an unregulated bank might prefer to employ a high quality

risk-management system for its competitive benefits. However, when a bank is required to adopt such a system, any investment in the quality of the system that exceeds the regulatory requirements would place it at a competitive disadvantage. A main source of the disadvantages in using a high quality system in the presence of regulation is the loss incurred from greater transparency when information must be shared with regulators. A bank may respond with a lower quality system that involves less disclosure. An additional cost is the duplication of systems that are designed to meet the needs of the bank and the regulatory requirements. Competitors who incur the costs of a system designed to meet only the regulatory requirements will have a competitive advantage. Thus, they conclude that “the presence of regulation may induce a bank to decrease the quality of its risk-management system” (Daníelsson et al. 2002, 1407). This problem is an instance of a more general phenomenon described by Daníelsson as a corollary of Goodhart’s Law (Daníelsson 2002). To Goodhart is attributed the insight that any statistical relationship will break down when used for policy purposes because the behavior of people following the policy will systematically alter the statistical relationship. The corollary drawn by Daníelsson is that risk-management systems (which rely on statistical relationships) will break down when used for regulatory purposes.

THE APPLICATION OF RISK MANAGEMENT

The mere fact that modern risk management played an essential role in the recent financial crisis does not necessarily mean that it was at fault in any way. Some risks are worth taking, and even great risks may be rationally chosen if the returns are sufficiently high. Stulz (2008, 60) observes, “In sum, effective risk management does not provide a guarantee against failure. Even in companies with the best risk management people and systems, large losses can and will occur as long as taking the risk of large

losses increases expected profits sufficiently for top management to be willing to take that risk.” The task of risk management is to ensure that top management knows and understands the risks and the potential gains and makes prudent trade-offs. Nevertheless it is evident in the recent financial crisis, that the leaders of financial institutions of all kinds did not understand the risk they were taking and made decisions that not only turned out badly but were objectively unwarranted at the time. However, mistaken judgment is not necessarily ethical failure, and a question for ethics is how to determine when incompetence becomes immorality. This question is especially difficult to answer when there is no intent, which is a standard factor in fault finding, and everyone is thinking and acting in the same ways. Under such circumstances, if anyone is to be blamed, then everyone is.

The law provides some guidance in addressing this question through the concept of *negligence*, which is a level of care that is less than what a reasonable and prudent person would exercise. Applying this legal approach to risk management would entail an examination of the possible ways in which adequate care might not be taken. Much has been written about the failures of risk management in the recent financial crisis, and in its practice generally, that cannot be fully covered here. In general, critics identify two theoretical problems that sharply limit the use of risk-management techniques and also discuss numerous practical mistakes that can be made in the use of these techniques.

On the level of theory, risk management attempts to quantify the probability of extremely rare events that occur far out on the tails of normal distribution curves. Some experts question whether such assignments of probabilities are even meaningful (Rebonato 2007), while others note the inherent unreliability of decisions based on any such probability measurements. This is the problem of “fat tails” or “black swans” (Taleb 2007), which either have no known distributions or else

distributions too scant to be successfully modeled. Risk management also assumes that the past is a reliable guide to the future, so that predictions can be made with models that use historical data. In the case of extremely rare events, however, historical data may be unavailable or of little predictive value, and data for even more common events may become unreliable when circumstances change, as occurs, for example, with technological developments. A more serious theoretical problem is that models assume a deterministic world that operates according to laws that can be expressed mathematically. Not only is economic behavior an extremely complex phenomenon, with far too many variables to be accommodated in any model, but also the presence of models can affect the behavior that is being predicted, especially in times of crisis (Daníelsson 2002). Models assume randomness, but they can lead traders to take identical positions based on the same information and, in crises, to take identical actions, so that the market ceases to be random. The October 1987 stock market crash is often used as an example of this phenomenon. Because of such model-inspired herd behavior, Daníelsson (2002, 1274) argues, "The basic statistical properties of market data are not the same in crisis as they are during stable periods; therefore, most risk models provide very little guidance during crisis periods."

The task of risk management is to ensure that top management knows and understands the risks and the potential gains and makes prudent trade-offs

Some of the practical problems with risk-management techniques are more technical in nature whereas others concern their managerial application. Among the latter kind of problems, managers have been criticized for using risk-management tools as justifications for taking even greater risks in a search for maximum returns without fully understanding the extent of these risks. Such a reliance on the results generated by

models provides a plausible defense under the business judgment rule but is hardly good risk-management practice. As Rajan (2010, 144) observes, “Not taking risks one doesn’t understand is often the best form of risk management.” Using risk-management results solely as a justification for risk taking also does not take full advantage of their usefulness for other risk-reducing purposes. Joe Nocera (2009) tells the story of how Goldman Sachs bankers decided to rein in their risks after they sought to discover the cause of declining results from their profit and loss models, which were still satisfactory but worrisome. Thus, Goldman Sachs avoided some losses by asking questions about their risk-management measures that were overlooked by competitors. Significant changes also often occur slowly over time, and so risk-management results must be analyzed to detect long-term trends. Furthermore, recent indicators before a crisis are generally benign, even promising, and that, John Cassidy (2010) observes, is the time to get worried.

More technical problems in using risk management include the point that it is difficult to anticipate the interactions among variables, which can often result in the compounding of consequences from small changes. This problem, which is known as procyclicality, may result when small changes in such factors as prices, volatility, and liquidity, which often occur in crises, lead to vicious feedback loops that produce large, unexpected effects. The nonlinear dependence involved in such large magnitudes of change may be more of a problem than fat tails, because, as Danielsson (2003) explains, it is harder to detect and model. Even a single, seemingly insignificant innovation can produce major disruptions. For example, an academic article on the correlation of loan defaults has been described as “the formula that killed Wall Street” (Salmon 2009). This article by a quantitative analyst David X. Li (2000) appeared to provide an easy way to compute the probability that any two assets would default at the same time, thereby facilitating the hitherto

impossible task of pricing CDOs composed of large numbers of mortgages. The formula depended on two assumptions—that defaults were normally distributed (a “Gaussian copula function”) and that probabilities could be determined from current market information and not historical data. Both assumptions turned out to be far from reality. Although Li made the assumptions fully explicit, overeager bankers ignored them with disastrous results.

Risk management attempts to quantify the probability of extremely rare events that occur far out on the tails of normal distribution curves

Finally, a great deal of criticism has been directed toward value at risk as a measure. VaR is a recent development that utilizes extremely sophisticated mathematical formulas to circumvent the need to perform an immense number of calculations about each asset in a portfolio. Its widespread adoption is due to the convenience of a single dollar figure that represents the maximum amount that a portfolio might lose in a certain period of time with a specified degree of probability. In addition to its use to determine the risk of a portfolio, VaR has also proven useful as a means to monitor the performance of traders and allocate capital among them. VaR proved to be of limited value in the recent crisis in part because it leaves the possible losses in extremely rare conditions unspecified. Measures of VaR with a 95% or a 99% degree of probability do not even attempt to estimate the losses that could occur in the realm of the 5% or the 1% range, which could be enormous. Moreover, VaR assumes normal distributions of even very rare tail events, but as critics such as Taleb (2007) argue, this underestimates the probability of some adverse event or other occurring. Furthermore, VaR does not work well in crises because it assumes that positions can be sold or hedged costlessly, whereas in times of stress, when liquidity or confidence is lacking, assets may have

no buyers or may be sold only at a deep discount. For this reason, VaR has been compared to an airbag that always works except in crashes (Einhorn and Brown 2008).

CONCLUSION

In its short history, modern risk management has assumed a central position in business decision making, especially in financial institutions, and it played a significant role in the recent financial crisis. Although much has been written about the technical problems with this practice, comparatively little attention has been given to the ethical issues involved. This chapter at least begins this much-needed examination by raising questions about the ethical implications of the adoption of risk management for groups other than shareholders and for matters of corporate accountability, responsibility, and regulation. Finally, some consideration is given to ethical issues in the application of specific risk-management techniques. Like all new technologies, risk management has great promise as well as destructive potential. With the benefit of hindsight after the recent financial crisis, it is now possible to begin the critical task of recognizing the challenges of using risk management responsibly.

BIBLIOGRAPHY

- Anonymous. 2008. "Confessions of a Risk Manager: A Personal View of the Crisis." *Economist*, August 7.
- Ayers, Ian, and John Braithwaite. 1992. *Responsive Regulation: Transcending the Deregulation Debate*. New York: Oxford University Press.
- Beck, Ulrich. 1992. *Risk Society*. London: Sage Publications.
- Bernstein, Peter L. 1996a. "The New Religion of Risk Management." *Harvard Business Review* 74: 47–51.
- Bernstein, Peter L. 1996b. *Against the Gods: The Remarkable Story of Risk*. New York: Wiley.
- Bhidé, Amar. 2010. *A Call for Judgment: Sensible Finance for a Dynamic Economy*. New York: Oxford University Press.
- Buder, Stanley. 2009. *Capitalizing on Change: A Social History of American Business*. Chapel Hill, NC: University of North Carolina Press.
- Cassidy, John. 2010. "What's Wrong with Risk Models?" *New Yorker Blog*, April 27.
- Daniélsson, Jón. 2002. "The Emperor Has No Clothes: Limits to Risk Modelling." *Journal of Banking and Finance* 26: 1273–1296.
- Daniélsson, Jón. 2003. "On the Feasibility of Risk Based Regulation," *Economic Studies* 49: 157–179.
- Daniélsson, Jón, Bjørn N. Jorgensen, Casper G. de Vries. 2002. "Incentives for Effective Risk Management." *Journal of Banking and Finance* 26: 1407–1425.
- Davis, Gerald F. 2009. *Managed by the Markets: How Finance Re-Shaped America*. New York: Oxford University Press.
- Douglas, Mary, and Aaron Wildavsky. 1982. *Risk and Culture: An Essay on the Selection of Technological and Environmental Dangers*. Berkeley: University of California Press.
- Einhorn, David, and Aaron Brown. 2008. "Private Profits and Socialized Risk." *Global Association of Risk Professionals*, June-July, 10–26.
- Ferguson, Niall. 2008. "Wall Street Lays another Egg." *Vanity Fair*, December.
- Giddens, Anthony. 1990. *The Consequences of Modernity*. Stanford, CA: Stanford University Press.
- Hacker, Jacob S. 2006. *The Great Risk Shift: The Assault on American Jobs, Families, Health Care, and Retirement and How You Can Fight Back*. New York: Oxford University Press.
- Haldane, Andrew G. 2009. "Why Banks Failed the Stress Test." Bank of England, February 9–10.
- Li, David X. 2000. "On Default Correlation: A Copula Function Approach." *Journal of Fixed Income* 9: 43–54.
- Meulbroek, Lisa K. 2002. "A Senior Manager's Guide to Integrated Risk Management." *Journal of Applied Corporate Finance* 14: 56–70.
- Moss, David A. 2002. *When All Else Fails: Government as the Ultimate Risk Manager*. Cambridge, MA: Harvard University Press.
- Nocera, Joe. 2009. "Risk Management: What Led to the Financial Meltdown." *New York Times*, January 4.
- Power, Michael. 2004. *The Risk Management of Everything: Rethinking the Politics of Uncertainty*. London: Demos.
- Power, Michael. 2007. *Organized Uncertainty*. Oxford: Oxford University Press.

- Rajan, Raghuram G. 2010. *Fault Lines: How Hidden Fractures Still Threaten the World Economy*. Princeton, NJ: Princeton University Press.
- Rebonato, Ricardo. 2007. *The Plight of the Fortune Tellers: Why We Need to Manage Finance Risk Differently*. Princeton, NJ: Princeton University Press.
- Rogoff, Kenneth, and Carmen M. Reinhart. 2009. *This Time is Different: Eight Centuries of Financial Folly*. Princeton, NJ: Princeton University Press.
- Salmon, Felix. 2009. "Recipe for Disaster: The Formula that Killed Wall Street." *Wired Magazine*, February 23.
- Stulz, René M. 1996. "Rethinking Risk Management." *Journal of Applied Corporate Finance* 9, 8–24.
- Stulz, René M. 2008. "Risk Management Failures: What Are They and When Do They Happen?" *Journal of Applied Corporate Finance* 20: 58–67.
- Taleb, Nassim. 2007. *The Black Swan: The Impact of the Highly Improbable*. New York: Random House.

>> The recent financial crisis has been different from those in the past, with regard to the prominent role played by risk management. In view of this novel factor, it is pertinent to identify the ethical issues presented by risk management and examine how these issues should be addressed. Specifically, this chapter considers the social impact of risk management, the implications for the accountability, responsibility and regulation of financial institutions, as well as problems in the practical application of risk management techniques. With the benefit of hindsight after the recent financial crisis, it is now possible to begin the critical task of recognizing the challenges of using risk management responsibly.

JOHN R. BOATRIGHT

Loyola University Chicago

THE WORTH OF RISK-TAKING AND RISK-AVOIDANCE

The Ethics of Risk Management and the Financial Industry

Peter Koslowski

Risk-management has been the catchword of the past decades in the financial industry. Financial market agents have claimed that the new risk management is able to manage risk to such an extent that financial crises will not happen again. Their risk management has not delivered. Immense losses and risks have been transferred from the financial markets to the tax-payer in the huge bailouts of banks in recent years (Koslowski 2011).

One reason for the risk-management crisis is the opaqueness surrounding the worth of risk-taking and risk-avoidance. Both are valuable but do not occur simultaneously nor under the same circumstances. When someone has developed a new technological innovation and takes financial and personal risks in order to introduce it onto the market, we acclaim his action. We would regret it if the innovation had not been introduced on account of reluctance to incur the risks. The readiness to take risks is considered to be desirable in the context of innovation.

If a person has a family with children and avoids extensive risks this is desirable for his family and for society. In the same vein, if a person in this situation were to gamble on the stock market, the risk-taking would not

be considered desirable. Under certain circumstances, caution and the will to avoid risk are considered desirable and the right conduct.

From this simple observation it can be understood that risk-taking and risk-avoidance are not the only factors of value for guiding action in the financial markets. Risk-taking and risk-avoidance are attitudes that the same individuals can adopt during different phases of their lives. A person as a bachelor may have a different attitude to risk than when he is married. A young man or woman may have a different attitude to that of an older person.

Taking a risk usually implies betting that choice of a risky alternative is better than that of a less risky alternative. The riskier alternative usually yields a higher return with a higher risk. Betting on the less risky alternative runs a lower risk and receives a lower return.

During the period that culminated in the financial crisis, the financial wager rose to a previously unknown height. The wager's rise was seen in all the financial markets. It was seen in the capital market, in which speculation on the capital gains of shares rose dramatically. It was equally seen in the credit market, in which the policy of easy money drove lending volumes to staggering heights. Meanwhile the relaxation of requirements for loan collaterals led to a higher tolerance of speculative uncertainty about debtors, and bad credit collaterals were purchased from the banks by speculative investors in the form of structured products. Finally, it was seen in the market for derivatives, in which something like an explosion of wagers on futures and options took place.¹

¹ On the scale of trading in derivative instruments, cf. Posner (2009, 144): "At its peak, the market in credit-default swaps was larger than the entire United States stock market (though that is misleading because swaps are largely offsetting)." According to Luttermann (2008): more than US\$50 trillion of credit default swaps were used to wager on synthetic derivatives and short selling.

AMERICAN CAPITALISM AND THE EUROPEAN SOCIAL MARKET ECONOMY:
DIFFERENT ATTITUDES TOWARDS RISK

Behind the crisis of the financial market caused by wagers lie the tendency and deliberate aim of modern industry to push production capacity to its limits and to achieve the maximum domestic product by means of optimum capital allocation. The financial industry plays an important role in meeting this objective through its function of financial intermediation. Through its defining role in the credit market and its mediating function in the markets for capital and derivatives, it serves the optimal allocation of capital and hence the efficiency of the economy as a whole.

Investment credit creates new opportunities for economic growth. For that reason, we will continue to need the financial industry in the future. Nevertheless, the crisis shows that a failure of financial institutions is as much of a negative multiplier as their sound functioning is a positive multiplier. Financial crises, with their inefficient allocation of capital, lead to shrinkage of the real economy. It is therefore necessary to avoid any failure or malfunctioning of the financial sector. Even if the financial sector does not always achieve the production-possibility frontier in its financial services to the real economy, a slightly suboptimal allocation of capital is preferable to a full-blown financial crisis, which results from unduly risky allocation of capital by means of excessive credit provision and the total depletion of the banks' equity. If less creative and risk-laden financial instruments mean that we lose 0.5% of growth in the economy as a whole, this has to be better than a financial market crisis with substantial capital destruction and losses of growth of -5% in the national economy.

Taking the frequency of financial crises to be once every 30 years, and a loss of growth of 0.5% per year over 30 years, the calculation looks

different again. In this case, it would be better to put up with one financial crisis every 30 years. We would then be talking about rational financial crises, which would be more tolerable than foregoing the endeavor to achieve optimal capital allocation.² The choice between risk-laden capital allocation and possible financial crises is no longer so clear-cut if a substantial loss of growth over a number of years caused by less-creative financing instruments is countered by the risk of a relatively modest and infrequent crisis. The frequency of financial crises is critical.

With reference to the relationship between the efficiency of capital allocation, the efficiency of the financial industry, and growth in the real economy, it is evident that risk assessment for financial instruments is difficult, and when it comes to the question of what risks the financial system should enter into as regards its choice of instruments, consensus is well-nigh impossible. Finance ethics must therefore be hesitant about rejecting these instruments outright and declaring them ethically problematic. Even for the assessment of risky financial instruments, the fact is that ethics does not seek to counter the reality of the financial industry with an abstract principle. Rather, by considering the purpose of the finance industry and the restriction of human rights, it derives ethical normativity from its very nature. From the principle of adequacy for the purpose of an institution or the principle of the obligation arising out of its nature, the obligations derived are normative, even if they are not perhaps as comprehensive and strict as those who were harmed by a financial market crisis might hope. From the ethical principle of obligation, we can infer that we must reject merely inflated instruments which deliver no benefits for the customer or superficial solutions which reap microeconomic benefits for the financial institutions but have no macroeconomic merit.

² Thiel (1996) discusses the approaches which explain financial crises from the rationality of the actors.

According to this principle, certain forms of securitization are also ethically problematic. For instance, Posner's statement, "The opacity of complex securities to investors aside, there is nothing improper about securitizing debt—that is, transforming a debt into a security." (Posner 2009, 54), is contradictory.

By considering the purpose of the finance industry and the restriction of human rights, it derives ethical normativity from its very nature

The opacity of complex securitized financial instruments cannot be left aside. It is the central economic and ethical problem of securitization. From the viewpoint of a theory of ethical economy, it would be indefensible to create securitized instruments that are not understood and consequently cause enormous damage. It would be like allowing racing cars onto the public highway—most drivers could not handle them safely even though there would always be a few who could. The conditions for securitization must be modified and made more stringent.³ And banks must be prepared to explain the economic benefit for capital allocation of securitized bonds like collateralized debt obligations (CDOs); they are only constructed and sold in order to circumvent the banks' capitalization requirements and they thereby increase the economic or systemic risk and trigger crises.

When it comes to derivatives, the same question applies as for securitization. Do the vast majority of derivatives have any functional benefit other than to generate commissions and fees for the financial

³ This demand is also voiced by Sinn (2009, 314): "So multi-tiered securitization should be prohibited. [...] A multi-tiered securitization of often six and up to 24 tiers is absurd and fulfils no economic function whatsoever. It is nothing other than trickery to exploit the highly lax and loophole-ridden rules of the system." (Own trans. from the German).

institutions? On ethical grounds, neither inflation of the number of derivative contracts, nor its decoupling from the hedging and arbitrage function, thereby leading to economically harmful speculation, should be allowed. The objective of avoiding hyper-speculation makes it necessary for derivative contracts to be made more responsible and transparent than is the case today. through registration and the deposit of capital. As a general principle relative to financial-market speculation, it should be required on ethical grounds that speculation should not be allowed to escalate out of control and exceed the necessary level to ensure market liquidity.

The most effective way out of the crisis is to instill awareness among the actors in financial institutions and financial markets that the finance industry is not just a playground for financial geniuses and speculators. Rather, the function of banks, the stock exchange and financial advisers should be to provide service. They serve the real economy by improving the allocation of capital, which in turn is necessary for the efficiency of the economy as a whole.

Part and parcel of the service mentality of the finance industry is respect for the bank's fiduciary duty towards the customer. This duty is not only an external legal duty but also an inner, ethical duty or self-commitment. The conscious knowledge that the finance industry also has an ethical self-commitment, and not just externally justiciable duties, is a point of central importance for overcoming the financial market crisis. The financial industry must realize that it is operating in a domain of the utmost ethical sensitivity. An ethical self-commitment by financial advisers and financial institutions is indispensable for the simple reason that the state cannot underwrite every consultation with a financial adviser. The banks must understand that they are financial service providers, that their job is to serve the customer, and that they cannot with impunity sell somebody something or advise them to do something that later leaves them worse off. They have a duty to act in the customer's

interest, a duty of allegiance to the customer. The impression we are given by many financial intermediaries is that if anything goes wrong, it is a result of the general risk or market sentiment, but certainly not the result of their bad advice.

Unlike doctors, financial services providers have no malpractice insurance, but sometimes the financial advice they give is akin to malpractice. Financial service providers do not assume the role of a guarantor, as doctors do, which entails a heightened duty of care for the patient and which has stronger legal reinforcement than the warranties of other occupations. Doctors are aware, on account of their professional ethics, that if the patient feels worse after treatment, something is wrong. Financial intermediaries prefer to shift the blame onto the market, seeing it as having turned against the customer. This betrays the continuing lack of a clear code of professional ethics for financial intermediaries.

The financial crisis, like all far-reaching historic crises, has not just one but several causes. Not all are relevant in terms of business ethics—that is, conditioned by shortcomings in business and corporate ethics. Some crisis phenomena, however, were caused by a lack of ethical motivation and of willingness to act ethically on the part of financial actors, or by defective institutional ethics in the financial institutions.

The causes are not exclusively the fault of the bankers, because everybody from politicians to bank customers clamored for and capitalized on the policy of easy money and universal access to cheap credit. In this sense, everybody played a part in the expansion and overextension of the financial sector.

It is inappropriate to put the blame solely on the market economy, and on its specific components, the banks and the finance industry. The financial sector made big mistakes but the supply of unduly cheap credit

was not caused by it alone. This policy initially broadened everybody's opportunities: large investments by major corporations, house building by the wealthy and the not so wealthy and, not least, the scope for state expenditure in excess of the restrictions of a balanced budget by means of public borrowing on the financial market.

It was a social policy desideratum that even poorer people should be in a position to borrow in excess of their normal creditworthiness to buy their own homes. Cheaper home mortgage financing, particularly in the United States, was not invented by bankers but by politicians. It is also wrong to say that simplifying access to mortgages is bad *per se*. On the contrary, this reduction in the cost of mortgages was an element of the demands of the 19th century social reform, realized by the introduction of cooperative and mutual banks.

The policy of cheap money also helped the financing of Germany's extraordinary burdens, like German unification and America's extraordinary burdens, like the Iraq war. Nobody wanted to impose consumer austerity on the German or the American populations to cover the bloating of these items of public expenditure, as would have been necessary in order to finance them entirely from taxation. Politicians chose credit financing and public borrowing, which contributed to the overstrain of the credit market. Public borrowing in Germany followed a dramatic trajectory, growing almost fourfold in the decade after German unification.⁴ Such a steep rate of increase was bound to trigger an explosion in the financial sector.

Therefore the scale of the current crisis cannot be blamed solely on the greed of actors in the financial institutions. It was also a consequence of the fiscal and welfare state, which has had to meet more and more

⁴ Source: Bund der Steuerzahler (German Taxpayers Association), according to Statistisches Bundesamt (Federal Statistical Office) (1950–2007) and own calculations by Bund der Steuerzahler (2008–2009).

commitments. Likewise—not least on account of international competition from tax havens—it cannot crank the tax lever any tighter and therefore has to resort to public borrowing and call upon the market for credit.

The scale of the current crisis cannot be blamed solely on the greed of actors in the financial institutions. It was also a consequence of the fiscal and welfare state

After the collapse of major banks with illustrious histories, the word on everyone's lips is more control. Nevertheless, it is necessary to steer a course between the extremes of fully- deregulated capitalism, on the one hand, and state control of the financial sector, on the other, along a third route of ethical self-commitment and self-control within the framework of a market system based on the model of the social market economy.

In the decade of 1997 to 2007, voluntary restraint and self-control in the financial sector were ideas that were out of sight and out of mind, replaced by the idea of the efficient market, with external competition which rendered voluntary restraint by market participants superfluous. Control by means of efficient markets was also the basis of the Washington Consensus which was deemed to apply to all countries and to the global financial market. In contrast to the Washington Consensus, the consensus of the theory of the originally German Social Market Economy, which was introduced into the “constitution” of the EU by the Lisbon Treaty,⁵ rejects

⁵ Article 3, 1 of the Consolidated Treaty on European Union (TEU) of 1 December 2009 states: “The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.” Online: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>.

any such dogma of market infallibility and holds it to be permanently beyond the pale of rational discussion.

The Social Market Economy does not defend the thesis that markets infallibly produce correct information, but rather that they produce the best possible information while sometimes functioning inadequately or imperfectly. The Social Market Economy is cognizant of the limits of human rationality. In “social market economy,” the attribute “social” should not therefore be understood to mean “redistributing,” “equalizing” or “leveling,” but rather, “having an attenuating influence on instabilities.”⁶

The effects of the limitations of human rationality in the market, coupled with inordinate selfishness, cause instabilities, as the financial crisis shows. Attenuation of these instabilities is the goal of the social market economy. In taking cognizance that market instabilities will need to be attenuated time after time, the Social Market Economy is intellectually ahead of the harmony-credulity of shareholder-value capitalism, and is therefore superior in terms of the theory and practice of the market economy. Risks are, however, not only inherent in the Anglo-American system. They are also inherent in the continental European systems, even if one system is sometimes the mirror-reflection of the other. Anglo-American capitalism is threatened by the crisis of pensions due to the

⁶ Hauser (2006). In his talk at the same conference, the author of this paper saw the future of Germany's Social Market Economy in a rather dismal light, in that the word “social” in “Social Market Economy” is increasingly shifting away from the sense of “attenuating instabilities” towards “redistributing” and “corporatist bargaining between major parties and associations,” a mood exacerbated by Germany's demographic and pension problems. As an impact of the crisis in the financial market, the pension problems of American “pension fund capitalism,” far from diminishing, have been rendered rather greater today by the financial crisis than the woes of Germany's pay-as-you-go pension insurance scheme; although this is no more than cold comfort for the threatened German pension system. The financial market crisis will force the Social Market Economy to revert to the original meaning of “social” as “attenuating instabilities,” thereby restoring its vitality and appeal. Cf. on the theory of the Social Market Economy, Koslowski (1998).

weakness of the capital market; the European Social Market Economy's pension system is endangered by the demographic problem.

Another aspect of the theory of the Social Market Economy is the awareness that market instabilities are related to the problems people have in accurately gauging risk. People can take excessive risks in the market. Therefore the Social Market Economy attaches great value to strict adherence to the banks' capitalization requirements, which have been undermined since 1980.

The Social Market Economy is equally cognizant that people in the market may be too risk-averse and do not take big enough risks, which is not a good thing either. So it is no good invoking the "social" attribute to reinforce demands for the German finance industry to adopt an unduly risk-averse strategy as opposed to the high risk strategy of the Anglo-American finance industry, because this would not be social at all: such a strategy of the financial system would waste considerable macroeconomic growth potential from which the economy as a whole would no longer stand to benefit.⁷ The rise in the cost of finance in

⁷ The same applies *mutatis mutandis* to regulation. If this produces higher costs than returns, it must also be hauled onto the dissection bench of criticism, according to Siebert (2008, 11). Lepore (2009, 34–41) points out in her essay on the history of the treatment of debtors and bankruptcy in the United States that the United States has a different, more forgiving and therefore more risk-embracing relationship to debt and bankruptcy than Europe: "Americans, though, came to prefer forgiving everyone's debts, on the ground that sorting debtors into two systems (bankruptcy for wheelers and dealers, debtor's prison for chumps) is, finally, undemocratic. Americans fought to provide the same debt relief for everyone because we believe in equality, and because bankruptcy protection makes taking risks less risky. Americans, Tocqueville wrote, 'make a virtue of commercial temerity'. We like risk. 'Hence arises the strange indulgence which is shown to bankrupts.' Our willingness to forgive—and forget—debt lies behind a good part of our prosperity [...]. Some Americans want traders to pay the risks we all took, as if traders *sinned* but we were merely *investing*." Since the settlers in 18th century America were deeply in debt to traders in London, Lepore takes the view of the American Declaration of Independence as a fortunate reprieve: "Virginia planters like Jefferson and Washington were monstrously in debt to merchants in London [...]. Declaring independence was a way of cancelling those debts. The American Revolution, some historians have argued, was itself a form of debt relief." (ibid., 36).

Germany would cost potential economic growth and would leave Germany and other continental European countries to fall behind other states of the international community of states.

One great difference between the United States and Europe resides in mentality: Americans who started as emigrants from Europe are risk-takers; Europeans who stayed in Europe are risk-avoiders. An even greater difference between the United States and Germany resides in the greater realism as well as a certain caution found in the model of the Social Market Economy, which draws partly on experiences of severe crises in the German economic system in 1923, 1929, and 1945 to arrive at a more realistic assessment of the market economy than the historic victors' perspective of American capitalism. The market economy is the best of all conceivable economic systems, but it is not infallible. Cognizant of the fallibility of humans and human institutions, it needs its regulatory framework. Germany in particular—in the light of its history, the atrocities of the regression to Nazism, two World Wars and two additional stock market crashes—and continental Europe in general are more pessimistic and cautious than the United States and the United Kingdom.

In the 1920s, there was only one crash that hit all the Western countries, and that was the stock market crash of 1929, whereas Germany alone was affected by the earlier currency wipe-out and stock market collapse of 1923, which occurred largely as a consequence of the Treaty of Versailles war reparations;⁸ the German currency fell to 400 billion (!) *Reichsmark* to the dollar, and Germany alone saw its currency collapse once again after the Second World War. Therefore people in Germany are understandably more alarmed by the current crisis, and they place more

⁸ Not forgetting that these, in part, were also a reaction to the—albeit substantially lower—French reparation payments following the Franco-Prussian war of 1870–1871.

value on monetary stability—including during the present phase of crisis management—than those in charge of American monetary policy.

Especially compared to the currency collapse of 1923, we can afford to view the present financial crisis of 2007–2008 with greater equanimity. In comparison with the dimensions of Germany's historical financial crisis, the present one is considerably more modest in caliber.

The Social Market Economy considers the minimum equity requirement upon financial institutions not just from the perspective of the banks but of the financial system as a whole. In the past, this has often been at odds with the interests of Germany's *Mittelstand*, its small and medium-sized businesses, since they like to borrow as cheaply as possible. Sure enough, by June 2009 the German spokesmen for business owners were calling for a new kick-start to the securitized bond market in order to lower the costs of their corporate borrowing. All the criticism of securitized loans, especially CDOs, was making credit more expensive for businesses, they claimed.⁹

A risk assessment will have to be conducted in such a way as to strike an appropriate balance between the corporate interest in cheap finance and the public interest in the stability of the financial sector through the sufficient capitalization of banks. This appeal for easy money, even in the very midst of the crisis, shows how difficult financial discipline and the right degree of the financial system's risk-taking are to define and maintain.

⁹ "Der Staat soll den Verbriefungsmarkt ankurbeln. Sorge vor Kreditklemme im Mittelstand/ Banken brauchen Instrumente zum Risikotransfer" [The state should kick-start the securitization market/ Fears of a credit crunch in small and medium-sized businesses/ Banks need instruments of risk transfer], *Frankfurter Allgemeine Zeitung*, 18 June 2009, 138: 22.

RISK-TAKERS AND RISK-AVOIDERS IN THE POPULATION AND THEIR RESPECTIVE RIGHTS

Is there unnecessary speculation and risk-taking in the derivatives market? Speculation is essentially a wager on future price changes. Speculation in derivatives is a wager to the power of two. Not only is it a wager on the future, on future values of a given factor; it is also a wager about the effect that a nominated value of that factor will have on the future value of another factor at a nominated future point in time. It is evident that the winnings from the wager, if the wager were successful, would be higher for the derivative wager than for the simple wager on the future value of shares or commodities. The prerequisite for a wager is to find someone who will place a counter-wager. Somebody who wants the protection of an interest-rate swap because he expects future interest-rate rises must find another party for the swap who will place the counter-wager that interest rates will fall. Since both parties have opposite but complementary future expectations, nothing stands in the way of their wager. In the case of derivatives, unlike other wagers, part of the stake is paid as a fee.

Anyone can use a wager to hedge against anything with anyone, if they both have opposing but complementary expectations about the future. The case is theoretically possible that half of the entire gross national income is staked by one half of the population on A_x , where $x=1\dots n$, and by the other half of the population on $\text{not-}A_x$, $x=1\dots n$. The macroeconomic value-added effect of this total wager is, however, zero because in the macroeconomic perspective, this is a zero sum game. Half of the population gains what the other half loses. Moreover, since wagering costs must also be reckoned—i.e. the commissions and fees charged in the financial markets—the total benefit gained, despite the income generated in wagering fees, is actually negative because productive activities are suppressed.

The example is, of course, fictitious because no economy can be preoccupied with wagering to the exclusion of all other activities. The question that arises, however, is what scale of wagering an economy can really afford, even if wagering is useful for hedging against price fluctuations? In a free economy, nobody is in a position to stipulate what share of gross national income this should be. But it is the task of financial market actors to ask the question. Is the derivatives market a place of real value-creation for hedging purposes, or just a vast betting shop? What about the opportunity costs of derivatives speculation? Could time and intellectual effort have been deployed more productively than in speculation?

The market for derivatives has positively exploded in the last decade. The statistics on derivatives are evidence of the scale of these wagers:

According to an estimate, the volumes of derivatives contracts in the world amount to US\$1.6 trillion (= 1,600 million million or 1.6 million billion) (Bogs 2007, 9).

In 2004, the world's largest economy, the United States, recorded gross national income (GNI) of US\$12,969.56 billion; Germany's GNI for 2005 was US\$2,852.33 billion (source: World Bank, by the Atlas method). If we projected this volume of derivatives onto the United States alone, it would mean total wagers of US\$123.36 billion for every billion dollars of American GNI and a wager of US\$123 on every dollar of income. If we assume a notional average American income of US\$24,000 per year, then wagers amounting to US\$2,952,000 would be riding on the average annual income of every American. Luttermann (2008, 20) estimates that derivatives to the value of US\$600 billion exist in the global market. According to the considerably more conservative estimates of the International Swaps and Derivatives Association (ISDA), the total volume of issued derivatives contracts in 2007 rose from US\$327.4 to

US\$454.5 trillion.¹⁰ Interest-rate derivatives, such as interest-rate swaps, accounted for by far the largest volume of contracts. According to the ISDA, the volume of issued interest-rate derivatives rose in 2007 from US\$285.7 to US\$382.3 trillion.

If the ISDA-estimated volume is projected by the same procedure as the first higher estimate, there are still wagers amounting to approx. US\$838,552 riding on the average annual income of every American. Of course, these wagers are not placed in the United States alone. Projection onto the world population is difficult. Nevertheless, the volumes of derivative wagers are staggering, and so are the volumes of wagering costs. It is also evident that the wagering volume in derivatives far exceeds the volume of derivatives necessary to meet hedging needs, and it serves the purpose of sheer speculation.

There is a strong suspicion that banks are entering into too many wagers in the form of options or structured products. One wager may be rational to hedge a certain risk, but hundreds of wagers to hedge the same risk are not. A thousand-fold wager on the same event is not an effective means of hedging. The only need it meets is the desire of market players to place wagers. Wagering on this scale is comparable to tax-planning. When individuals in a fiscal state devote more time to tax-avoidance than to productive activities, there is a problem: What is rational for an individual's private economy is not rational for the economy as a whole. As in the case of derivatives wagers the amount of energy and effort used for tax-avoidance would be better deployed to productive uses.

Financial wagers differ from games of chance only when they demonstrably provide some economic functionality, or a contribution to

¹⁰ "Finanzmärkte: Derivatemarkt wächst stark," *FAZNET*, 16 April 2008, <http://www.faz.net/s/RubF3CE08B362D244869BE7984590CB6AC1/Doc~E01C5CE6CC87149F8BE61DF204CD07505~ATpl~Ecommon~Scontent.html>.

value-creation such as hedging, market liquidity, or arbitrage. But even if such functionality is present, that in itself is not sufficient to determine what volume of financial wagers is useful and value-creating. Even if financial wagers are demonstrably useful for the financial markets, more wagers may be placed than are necessary for this purpose, and the excess of wagers may not only be non-functional and inappropriate for the purpose, but may even be detrimental. The extension of financial wagers to a dysfunctional scale encourages financial wagers of the gambling type and shifts the financial markets for these wagers in the direction of a space for games of chance. Excessive financial wagers create excessive liquidity in the markets, which only serves the gambling motive and increases price fluctuations.

There is a strong suspicion that banks are entering into too many wagers in the form of options or structured products

The rule for options is therefore: if options are to fulfill their function for hedging and arbitrage, for the fulfillment of these functions a certain extent of speculation is necessary to ensure the liquidity of the market for options. If this speculation in options significantly exceeds the amount necessary for this purpose, the element of gambling in speculation in derivatives may gain the upper hand. This danger exists when there is no obligation to register options and no cash deposit requirement.

Essentially, in the market for derivatives, a wager or an option contract can be arranged about anything and guaranteed by the option writer. As with other wagers, the extent of wagering activity and the stability of the market for derivatives in relation to the economic function of derivatives plays the decisive role. If non-value-creating wagers suppress other value-creating economic activities, an economic problem exists even

where wagering causes no direct harm. The problem caused by excessive wagering activity is the opportunity cost of such activity: other, value-adding activities could have taken its place. The non-value-adding activity of derivatives wagering suppresses other, value-adding economic activities.

Some have to speculate and take risks as a pre-requisite so that others can merely calculate and invest as well as avoid risk. Both professional speculation, as well as the amateur speculation that rose dramatically in the run-up to the financial market crisis, enable others, who prefer not to speculate, to limit their risks by 'hedging'. When speculation is taken to excess, there is a portion of speculation which no longer serves non-speculative purposes, such as hedging and the liquidity of financial markets, but which consists of self-dealing. The principle that "Everything worth doing is worth doing in excess" cannot and must not govern financial speculation.

This judgment is unduly cautious. When wagers amounting to many times gross national income are placed in the form of derivatives, the constructive and functional element of derivatives speculation is in danger of being forgotten, and the line to chance-based gambling in danger of being crossed. Although this does not turn derivatives into weapons of mass destruction, as Warren Buffett claimed (Berkshire Hathaway Inc. 2002, 13 and 15),¹¹ because no harm is intended, nevertheless they are financial wagers which have, for the most part, crossed the line into chance-based wagers and which therefore cause macroeconomic harm on account of their opportunity costs.

How was it possible for so many derivatives wagers to be placed for such high amounts? For the investor, the highly leveraged nature of derivatives

¹¹ "We view them [derivatives] as time bombs." "In our view, however, derivatives are financial weapons of mass destruction, carrying dangers that, while now latent, are potentially lethal."

trading makes it easy to enter the derivatives market but difficult to exit it when the high option-wagers do not work out. To quote Buffett (*ibid.*, 15), options are like hell: “easy to enter and almost impossible to exit.” In a certain sense, that applies to all wagers.

DEBT AND GUILT, BANKRUPTCY AND HELL

Hell is the imagination of the complete and irreversible failure of human existence. Its equivalent in business is bankruptcy. In religion and in business, hell and bankruptcy must be avoided. Culpability, debt and forgiveness are pivotal concepts of Christianity. According to Margaret Atwood, “The whole Theology of Christianity rests on the notion of spiritual debts and what must be done to repay them, and how you get out of paying by having someone else pay instead.¹²” A passage found in the writings of Augustine of Hippo (*Confessiones* V, 9, 17) declares that God not only grants remission of debts but makes himself the debtor. Nietzsche takes up this idea: in Christianity, the creditor sacrifices himself for the debtor, “God sacrificing himself for man’s debt, none other than God paying himself back, God as the only one able to redeem man from what, to man himself, has become irredeemable, the creditor sacrificing himself for his debtor, out of love (would you credit it?), out of *love* for his debtor! ...” (*Genealogie der Moral*, 2. Abhandlung, § 21, KSA 5, 331).¹³ Phenomena like the economic relief of debt, the remission of payments to a later date and debt relief rituals, according to Waldenfels, are the

¹² Quoted after Paumgarten (2009, 49). Paumgarten refers to Atwood (2008). The author has shown this connection between obligations and debt relief with reference to the “satisfaction theory of redemption,” a theory of the assumption of debt by a third party for the satisfaction of the creditor. Cf. Koslowski (2005, 421–436), Koslowski and Hermanni (2009), and Koslowski (2010). Paumgarten (*ibid.*, 57) concludes his article with the statement: “Capitalism without bankruptcy is like Christianity without Hell.”

¹³ Saint Augustine and Nietzsche cited after Waldenfels (2005, 301); quotation from Nietzsche’s second essay (Nietzsche, 1994–2007, 63).

“extraordinary fringe” that surrounds normality (Nietzsche 1994–2007, 303). In this sense, the European Financial Stability Facility (EFSF) established for stabilizing the Euro is the extraordinary fringe that surrounds an otherwise normal currency.¹⁴

Hell and bankruptcy share the feature that we hope they will not happen but cannot be sure about it. We wish the market economy were an order without bankruptcy and Christianity a religion with a hell that is empty. Some theologians claim that hell exists but that no one is in it. Certainly, there are no economists who would deny that bankruptcy exists and claim that no one is in it. Again, hell and bankruptcy have the function to signal to the individual that it is wise to reflect on risk and to be neither too risk-taking nor too risk-avoiding since the failure to do so can result in irreversible loss.

¹⁴ The European Financial Stability Facility (EFSF) was created by the Euro area member states following the decisions taken 9 May 2010 within the framework of the Ecofin Council.

BIBLIOGRAPHY

- Atwood, Margaret. 2008. *Payback. Debt as Metaphor and the Shadow Side of Wealth*. London: Bloomsbury.
- Berkshire Hathaway Inc. 2002. *2002 Annual Report: Chairman's Letter*, <http://www.berkshirehathaway.com/2002ar/2002ar.pdf>: 13 and 15.
- Bogs, Steffen. 2007. "Warten auf Domino. Derivate sind der Renner im globalen Casino. Gehandelte Volumina werden auf 1600 Billionen US-Dollar geschätzt. Ein kräftiger Schubs könnte genügen." *Junge Welt*, 12 July: 9. Online at: <http://www.neo-liberalismus.de/forum/messages/5110.html>.
- Hauser, Siegfried. 2006. "Die ökonomische und soziale Dimension der Sozialen Marktwirtschaft – Komplementarität versus Konflikt" [The Economic and Social Dimension of the Social Market Economy—Complementarity versus Conflict], lecture at the conference on "Die Perspektiven der Sozialen Marktwirtschaft" held by the Wirtschaftspolitische Gesellschaft von 1947 (WIPOG), Wiesbaden. 6 April.
- Kosłowski, Peter (ed.). 1998. *The Social Market Economy. Theory and Ethics of the Economic Order*. Berlin, Heidelberg, New York, Tokyo: Springer.
- Kosłowski, Peter. 2005. "Schuldverhältnisse." In *Le don et la dette*, edited by Marco M. Olivetti, 421–436. Padova: CEDAM e Biblioteca dell'Archivio di filosofia.
- Kosłowski, Peter (ed.). 2010. *Endangst und Erlösung 2. Rechtfertigung, Vergeltung, Vergebung in Philosophie und Theologie*. Munich: W. Fink.
- Kosłowski, Peter. 2011. *The Ethics of Banking. Conclusions from the Financial Crisis*. Heidelberg, New York, Tokyo: Springer Publishers.
- Kosłowski, Peter, and Friedrich Hermann (eds.). 2009. *Endangst und Erlösung 1. Untergang, ewiges Leben und Vollendung der Geschichte in Philosophie und Theologie*. Munich: W. Fink.
- Lepore, Jill. 2009. "I.O.U. How We Used To Treat Debtors." *The New Yorker*. April 13: 34–41.
- Luttermann, Claus. 2008. "Der Wahrheitsstandard einer Weltfinanzordnung." *Frankfurter Allgemeine Zeitung*. November, 263, S. 20.
- Nietzsche, Friedrich. 1994, 2007. *On the Genealogy of Morality*, edited by Keith Ansell-Pearson, 63. Cambridge: Cambridge University Press.
- Paumgarten, Nick. 2009. "The Death of Kings. Notes from a Meltdown." *The New Yorker*. May 18 (Annals of Finance): 40–57.
- Posner, Richard A. 2009. *A Failure of Capitalism. The Crisis of '08 and the Descent into Depression*. Cambridge, MA: Harvard University Press.
- Siebert, Horst. 2008. "Ein Regelwerk für die Finanzmärkte" [A Regulatory Code for the Financial Markets]. *Frankfurter Allgemeine Zeitung* 250, October 25: 11.
- Sinn, Hans-Werner. 2009. *Kasino-Kapitalismus. Wie es zur Finanzkrise kam, und was jetzt zu tun ist*. Berlin (ECON) 1. Aufl., 2. Aufl.: 314.
- Thiel, Michael. 1996. *Eine Theorie der rationalen Finanzkrise* [A Theory of the Rational Financial Crisis], Frankfurt/Main: Peter Lang.
- Treaty on European Union. 2009. Online: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>
- Waldenfels, Bernhard. 2005. "Geschenke und geschuldete Aufmerksamkeit." In *Le don et la dette*, edited by Marco M. Olivetti, 301. Padova: CEDAM e Biblioteca dell'Archivio di filosofia.

>> Risk is not a homogeneous phenomenon. Sometimes, risk-taking is considered to be positive, as is sometimes risk-avoidance. This paper investigates the conditions under which risk-taking and risk-avoidance are considered to be positive. It compares the differences in attitude towards risk in American finance capitalism and the Continental European Social Market Economy. It examines the rights of risk-takers and those of risk-avoiders in the population, in which both must be taken into consideration. Risk-takers should not transfer the burden for their financial speculation onto those parts of the population that are risk-averse and disapprove of it. In this perspective, the bail-out of financial institutions by tax-payers is problematic.

PETER KOSLOWSKI

VU University Amsterdam

ETHICS IN MICROFINANCE

Reinhard H. Schmidt¹

ETHICS AS AN IMPORTANT ASPECT OF MICROFINANCE

Not so long ago, the provision of small and very small loans and other financial services to relatively poor people in developing countries and the former socialist countries of Eastern and Central Europe, known as microfinance, was hailed as a fascinating and absolutely positive idea. It was supported by almost all policy-makers and development experts. The hype about microfinance reached its peak in late 2006, when the Nobel Peace Prize was awarded to Professor Muhammad Yunus and the Grameen Bank, the microfinance institution (henceforth abbreviated as MFI) in Bangladesh that he had founded in the 1970s. The Noble Peace Prize had the effect that microfinance became suddenly widely known to the general public and regarded by many as the most humane part of the international financial system, perhaps even the only humane part. And indeed, the prize was awarded for good reason: anyone who strives for a fairer distribution of the opportunities for personal and economic development by providing loans as widely and effectively as Yunus and his

¹ The author holds the chair of international banking and finance at Goethe University in Frankfurt, Germany. His email address is schmidt@finance.uni-frankfurt.de. This paper is an updated and greatly shortened version of an article published in the e-journal *Poverty and Public Policy* 2, 2010.

bank have done for years is indeed promoting world peace, since lack of access to financial services is one of the main reasons why poverty is perpetuated, making massive and long-term poverty one of the greatest threats to peace.² Thus, there is obviously a manifest connection between microfinance and ethics.

But as I write in the summer of 2011, the situation has changed in a fundamental way, and this is not only because the financial crisis has affected some MFIs as seriously as many other banks. Much more important is a plainly moral issue. In India, a series of suicides among borrowers who had obtained loans from MFIs occurred in 2010. These tragic events attracted great public attention and tarnished the formerly unambiguously positive image of microfinance. Suddenly general scepticism concerning microfinance has spread. Does microfinance work at all? Can it have any positive effects on poverty and development? Is the business model that many MFIs had adopted in recent years really appropriate? And is it justified to use public funds to support microfinance, as had been done on a considerable scale in past years? All of these concerns also touch on ethical issues.

Thus the relationship between microfinance and ethics is certainly more complex than the Nobel Peace Prize for Yunus and his bank as a reward for “discovering” microfinance as a means of combating poverty suggests. The complexity goes beyond the doubts that had already been expressed by competent observers for quite some time as to whether microfinance is really a suitable instrument for combating poverty; even if this claim were inappropriate it would not imply that microfinance lacked any developmental or ethical value.³

² As Yunus rightly pointed out in his acceptance speech for the Nobel Prize; see Yunus (2006, 285).

³ Scepticism concerning the role of microfinance in poverty alleviation is expressed, among others, by Morduch (1999).

My contribution to this volume discusses several aspects of the relationship between microfinance and ethics. The questionable role of microfinance for poverty alleviation, and the exaggerated claims made in this respect by Yunus and many of his followers are only a minor aspect of this debate. Of greater importance are the tensions that seem to exist between moral standards and economic imperatives in setting up and operating MFIs. More specifically, it is the role and the merits of what has become known as the commercial approach to microfinance.

Lack of access to financial services is one of the main reasons why poverty is perpetuated, making massive and long-term poverty one of the greatest threats to peace

The term “commercial approach to microfinance” means a strategy of setting up and running MFIs in such a way that they can cover their full costs, including the cost of equity, after a short start-up period, and be permanently independent of subsidies from development aid institutions. Interestingly, Grameen has not adopted this approach, and Yunus has for many years been one of its most outspoken critics. However, since the turn of the millennium, the vast majority of microfinance experts have been convinced that there is no alternative to the commercial approach. For a few well-known institutions like Grameen Bank with an extremely eloquent and highly respected spokesperson like Muhammad Yunus, it may be a viable business model to simply do good and socially highly-relevant work while relying on outside support for covering the expected deficits of these activities. But for the hundreds and even thousands of MFIs that have come into existence during the past 30 years, this is not the case. Therefore, any serious MFI must to some extent be commercially oriented. But the crucial question is this: how strong should, or even must, the commercial orientation of an MFI be?

That too little commercial orientation can be a problem is self-evident, because a lack of financial viability would threaten the very existence of an MFI. The more interesting cases are MFIs whose activities reflect what I call “excessive commercialization.” Such cases exist, and they have recently attracted great attention. This is because those events that caused microfinance to lose most of its reputation and its moral appeal have precisely occurred at MFIs which I regard as excessively commercialized.

This paper is built around three propositions: the first is that microfinance continues to be a socially, economically and morally valuable undertaking, provided that it is done properly and is based on a healthy dose of a commercial orientation. The second is that recent developments have caused a moral crisis of microfinance resulting from excessive commercialization. The final proposition is that this excessive commercialization should and can be avoided.

In order to develop and support these three propositions, section two describes how microfinance has developed and become a success story. Section three explains the substance of the 1990s’ controversy about the commercial approach. Then, in section four, I address recent developments which have led to the current moral crisis of microfinance. I conclude with what may appear to be an inappropriately optimistic and seemingly paradoxical outlook for microfinance for the next five or even ten years.

THE DEVELOPMENT OF MICROFINANCE

1. Modest beginnings

Promoting financial systems in poor countries has long been an important part of Western development-aid policy. It was based on the plausible assumptions that poor countries lack capital and that having a better

financial system would spur economic growth. However, views as to what constitutes a good financial system and how the financial system of developing countries can be improved have changed over time. One of these changes led to the emergence of microfinance.

The old policy of development finance that had been pursued since the 1950s consisted of channeling large amounts of capital from Western countries to government-related development banks in the recipient countries, which would then on-lend these funds to state-related projects or agencies and large firms. The optimistic belief underlying this policy was that the promotion of so-called growth poles would ultimately trigger a process of general, self-sustaining growth and that this would also benefit the poor and small businesses because “a rising tide would lift all boats.”

However, in most recipient countries the hoped-for “trickle-down effect” failed to take place. The ethical lesson from this failure is clear and simple: it is not enough to rely on illusory and poorly substantiated theories as to what the measures in question will achieve and to hope that the initiatives undertaken will somehow simply lead to positive results.⁴ Moreover, in most countries the traditional form of development finance had the unintended consequence that income, wealth and economic opportunity became more unequally distributed than before. In the period after 1968 and the end of the Vietnam War this effect was not politically acceptable.

In 1973, Robert McNamara, at that time the president of the World Bank, renounced development finance as it had been practiced so far. His famous speech delivered in Nairobi, Kenya, marked the starting point of

⁴ See also Easterly (2001) for a cogent critique of this lack of a theoretical basis of this policy.

the second phase of development finance and the beginning of microfinance, as we call it now. The new policy ushered in by his speech still consisted of channeling funds to developing countries. But now capital was no longer only provided in large amounts to large banks and central agencies but also directly, parceled into small sums, to the newly identified target groups of the poor and of small enterprises.

The idea of bringing small sums of capital directly to those who were supposed to need it most required finding new “delivery channels” to ensure that these target groups were reached. Given the general interest-rate restrictions that were still in place in almost every country at that time, banks were rightly considered to be unable and unwilling to perform this function: it would never pay for them to serve poor clients. Thus other institutions that were really interested in reaching and supporting small enterprises and poor people were needed; and indeed many such novel institutions were created quite rapidly with foreign support. Most of them were not-for-profit institutions that had high ethical standards and great ambitions. But because they also had very high costs and lacked a well-designed business model, they became the proverbial bottomless pits and almost none of them survived their first years.⁵ Moreover, a considerable fraction of these new institutions were managed by politically inspired social scientists from Western countries who were not competent to run financial organizations and had little understanding of the financial problems of the owners of small businesses in developing countries. Thus also the second approach to development finance failed, leaving behind another ethical lesson: it is simply not enough to have good intentions.

⁵ One of the few exceptions that managed to survive and even to grow considerably due to Yunus’s charismatic leadership and fund-raising skills was the now famous Grameen Bank.

2. The advent of modern microfinance

Another group of new development-finance projects had better prospects for success. They consisted of externally financed credit programs of NGOs which were not shaped and dominated by sociologists and their like from the industrialized countries, but rather by politically liberal men and women, often themselves entrepreneurs, from the respective host country. The initiators of these programs were aware of the needs of micro-entrepreneurs, the main target group of the new policy, and they could be assumed to understand their economic and financial problems.

Towards 1990, the conviction emerged among development-finance experts that small-scale and very small-scale entrepreneurs in the developing countries were the ideal target group, and NGOs set up and operated by local business people were the ideal organizational form for a sponsoring organization, thereby creating the perfect match on the development-policy scene. Since the NGOs were business-oriented and also socially committed and had as little to do with the state as did their customers, this constellation fitted almost perfectly into the political landscape of the time. A number of international development agencies took up this idea and sponsored several of these new credit-granting NGOs.

It is important to distinguish between two types of MFIs.⁶ One type consists of those which were concerned about limiting costs and increasing revenue in order to eventually reach a level of efficiency that would make them financially self-supporting. In principle, this commercial orientation would imply the requirement to contain costs by focusing on credit as the sole service provided and increase revenue by charging higher, and possibly even cost-covering, interest rates for loans.

⁶ See also Morduch (2000), who vividly describes what he calls the “microfinance schism.”

The policy of MFIs of the second type consists of providing many kinds of services that poor people might need, charging lower interest rates on microloans and being less stringent with respect to repayment. For outside observers, this softer approach had some appeal because it appeared to be more client-friendly and more in line with the ability of poor clients to bear the full cost of borrowing.

In 1992, the Inter-American Development Bank commissioned a study of the “efficiency of credit-granting NGOs” covering MFIs of these two types. The findings of this study, which were published in 1996, were quite sobering.⁷ The yearly deficits of those MFIs that followed the soft approach were horrendous. But even those MFIs that had some aspirations to break even on their credit operations were far from reaching this objective. The conclusion was straight-forward: with the high levels of costs reported in the study, no MFIs would be able to survive and would be permanently dependent on subsidies. However, shifting their high costs, which were in the range of almost 100%, to customers would have been equally impossible for economic, political and ethical reasons.

Some international donor agencies required a much higher level of efficiency from the MFIs they proposed to support. Given this pressure, some credit-granting MFIs started to undertake serious efforts to reduce costs and become efficient

If microfinance had to be as expensive as it seemed at the time, it would not be a suitable instrument either for alleviating poverty or for creating jobs and stimulating growth. Over the long term, the organizations in question could not have created even an illusion of greater social equality.

⁷ See Schmidt and Zeitinger (1996).

In the form in which it was carried out at the time, microfinance could only be political window-dressing, and advocating it as a means of development policy—and spending donor money on it which could have been allocated to other, more effective development-aid measures—appeared ethically questionable.

These findings inspired some international donor agencies to require a much higher level of efficiency from the MFIs they proposed to support. Given this pressure, some credit-granting MFIs started to undertake serious efforts to reduce costs and become efficient. When he learned about the results of this study, J. D. Von Pischke, one of the leading experts on development finance, suggested a goal which at the time seemed utopian: the sum of administrative and risk costs of a good MFI should not amount to more than 20% of its loan portfolio. Costs of this magnitude would be low enough to be passed on to their customers, thus allowing MFIs to cover their costs and expand the scope of their activity in accordance with their dual goals of sustainability and increasing outreach. Those who accepted the challenge, certainly a minority among the MFIs in existence in the early 1990s, adopted the new label of being commercial MFIs.

THE OLD DEBATE ABOUT THE ETHICS OF COMMERCIAL MICROFINANCE

1. Commercial microfinance and its critics

The second half of the 1990s saw dramatic developments in microfinance. This was thanks to a series of innovations in credit technology⁸ and organizational structure of MFIs and of the types of development projects

⁸ The debate at that time was about the merits of three technologies. These were granting loans to small groups, called group lending, to large groups, called village banking, and lending to individual small businesses owners and other poor people.

that served to create new microfinance institutions and programs.⁹ The best MFIs were able to reduce their costs to a level of about 20% of their loan portfolios. A few even managed to cover their full costs entirely through current revenues.

Naturally, there were serious debates regarding the best way of achieving this ambitious aim. Two main “approaches,” as they were referred to in the technical jargon, crystallized out of these debates. One is the “institution-building approach,” which considers creating viable institutions that can achieve sound performance as the key issue and a prerequisite for financial and developmental success. The main protagonist of this approach was the German consulting firm Internationale Projekt Consult (IPC). The other approach was called the “commercial approach.” Among experts, it was mainly associated with ACCION, a United States-based microfinance support organization. But the labels do not mean much since there is hardly any contradiction between the two approaches: financially viable MFIs must also be commercially oriented, and if they are to achieve the commercial success necessary to make a lasting impact, they must have a suitable institutional form. I therefore continue to use the more widespread term “commercial approach” for both of them.

Towards the end of the last century, the commercial approach had clearly won out over the more traditional well-intentioned but inefficient “softer” ways of doing microfinance. However, it would be a mistake to assume that the views shared by IPC and ACCION and most other leading practitioners and academics in microfinance were universally accepted. The key figures of many MFIs, including Yunus, as well as many experts working in development-aid institutions or academia, had strong reservations vis-à-vis the new approach, or were even openly hostile to

⁹ The focus of this debate was about the relative merits of three types of development projects in microfinance called downscaling, upgrading and greenfield projects; for details see section three below.

it.¹⁰ In their view, trying to achieve profits through development projects was morally reprehensible *a priori*. They even did not consider covering costs as an appropriate goal, because in their eyes the work of MFIs was socially and politically so important that the industrialized countries were morally obliged to finance their activities and to cover the deficits that developmentally respectable MFIs would necessarily incur. This criticism was ethically motivated, but as is shown now, it is not justified on the basis of facts and figures.

2. Using simple numbers to illustrate the conflict

The conflict of the 1990s regarding the ethical value of the commercial approach can be illustrated by comparing two hypothetical MFIs called MFI-1 and MFI-2, modeled after what may have been good institutions of their respective types for that era.

MFI-1 is commercially oriented, while MFI-2 is not. Both were founded four years earlier, using the same amount of development-aid funds, and both issue loans of an average size of US\$1,000. In its fourth year of operations, MFI-1 has administrative and risk costs (per year) which together amount to 15% of its average loan portfolio. Including funding costs of about 10%, it has total costs of about 25%. Owners of small and very small businesses are offered loans at terms and conditions which correspond to an effective interest rate of 30% if one includes customers'

¹⁰ The critical positions of Hulme and Mosley (1996) and Woller et al. (1999) are particularly outspoken and also noteworthy since both teams of authors were the editors of the two leading journals in this field, the *Journal of International Development* and the *Journal of Microfinance*, in the 1990s. Woller and his co-authors explicitly attack the commercial approach. They expressed serious "concerns about the direction in which [the proponents of the commercial approach] are attempting to push the industry," and mention the Grameen Bank as the "most prominent example" of the only type of MFI which they consider appropriate from a developmental and ethical standpoint.

own transaction costs. MFI-1 is thus covering its costs, and as it has already been doing so for some time it also has the equity that is required for an expansion of its operations. It can also easily obtain additional loans from development-aid organizations which it may need for expansion. Thanks to its better access to funding, MFI-1 has 30,000 borrowers. However, its strict orientation aimed at covering costs implies that its management cannot always be “nice” to borrowers in arrears and employees who do not cooperate.

MFI-2 rejects the commercial approach on ethical grounds and operates accordingly. This is why it has higher total costs of about 40%. Its managers do not find it acceptable to pass these costs on to its customers. The effective interest costs for the customers are only 20%. But this is not enough to cover MFI-2’s costs. Therefore, it is necessary to find some development-aid organization willing to offset the deficit. This can be managed with a certain amount of effort and skill, but since the organizations which come into question to cover the deficit do not approve of the fact that MFI-2 is still failing to cover its full costs, they cannot be persuaded to provide the additional funds that would make it possible to expand the level or the scope of activity. Therefore MFI-2 can only serve 10,000 customers.

I also make the following assumption that will make the evaluation easier: the clients of both institutions take out loans not out of high spirits but because they really need them for their businesses. Their only alternative is to borrow on the informal credit market where the effective interest rate on small loans is at least 100% per year, a realistic figure in the poorer parts of the world.

The ethical problem is now easily demonstrated: MFI-1 can at times be harsh, and it demands higher interest rates from its poor clients, but it can serve three times as many customers as MFI-2 by offering them loans

at 30%, or in other words enables 20,000 more individuals to avoid taking out expensive informal loans that would cost 100%. MFI-2 is not as rigorous in dealing with its customers (and possibly its employees), and is thus a friendlier institution, but it serves far fewer customers.

The monetary value of the costs which the customers of a microfinance institution save by *not* taking out a loan on the informal market can be used as a very simple quantitative measure of the impact of its operations. If one multiplies the average loan size by the number of loans outstanding, the interest savings (100% minus interest paid, that is 30% or 20%) per dollar borrowed, yields a benefit for the clients of US\$21 million in one single year. The corresponding calculation for MFI-2 yields a benefit of only US\$8 million—and thus US\$13 million less.¹¹

Being a strategic shareholder—or simply an owner—of an MFI requires more than merely putting up equity

Other benefits offered by the two MFIs could also be calculated, and it would also make sense to add the net benefits over the course of several years. But for what I want to show, these refinements are not necessary. A decision-maker acting in the interest of the officially declared target group of the poor people and of small businesses would hardly find it difficult to decide which one of the two MFIs should be supported: MFI-1 is clearly preferable on both economic and ethical grounds. This simple comparison of the expected benefit to the borrowers is a clear ethical endorsement for the commercial approach: it is ethically superior simply because it generates a much stronger development impact.

¹¹ For a more explicit calculation, see Schmidt (2010).

3. New ways of creating microfinance institutions

By the middle of the 1990s, the economic and regulatory conditions for financing small and very small enterprises had changed. Most importantly, the upper limits for interest rates that banks could charge their clients had been removed in most countries. In view of the serious efficiency problems that most microfinance NGOs had encountered, microfinance experts started to think that it would be more effective and more efficient to have specialized microfinance banks instead of NGOs for providing microfinance services. The most important advantage of banks would be that they are permitted to take deposits. This would allow them to provide an additional service that their clients could be expected to value highly, and also to use client deposits as a source of funds for making small loans. Another advantage is that formal, licensed banks as specialized providers of microfinance services would be regulated as supervised institutions, and for this reason alone could be expected to be more efficient. But where would these banks come from? How could they be identified and possibly created?

One way of creating the desired kind of banks is a new type of development-finance project called “upgrading.” An upgrading project consists of three steps. The first step is identifying a credit-granting NGO whose founders or current leaders would be willing to make their NGO undergo a profound institutional transformation. As the second step, foreign aid is used to strengthen the NGO and turn it into a good credit-granting institution able to cover its full costs or at least well on its way towards full cost-coverage. The final and decisive step consists of changing the legal status of the NGO into that of a corporation, obtaining a banking license and then starting banking operations within the new legal structure. A consideration that had made some development finance experts expect a great deal from upgrading projects was the presumed importance of locally available knowledge and the active involvement of the key players in the former NGO.

Some upgrading projects were quite successful. But the number of success cases was smaller than had been expected,¹² and in many cases it turned out to be very difficult to integrate the former NGO leaders into the new organizations since they were very attached to the old NGO model. Thus most of the presumed benefits of transforming existing NGOs into microfinance banks were unattainable.

Because upgrading was less successful than expected, a new type of development-finance project was developed. Instead of transforming an existing NGO into a bank for local small-business clients, aid agencies and their advisors started to build target-group oriented MFIs “from scratch”—that is, without a precursor institution. This approach was called “the greenfield approach.” By now, this approach has become the preferred way of creating new efficiency-oriented and also target-group oriented MFIs.

4. The crucial question of ownership

The creation of a microfinance bank in the legal form of a corporation, be it through the upgrading of a former NGO or through the founding of such a bank from scratch, became more or less a routine operation after the first cases had been successfully implemented. However, in all of these cases, there is one very important problem, which evidently entails an ethical aspect: who should be the owner or owners or shareholders of the new institution? One possible candidate in the case of an upgrading project could be the former NGO. But this would rarely be enough; additional shareholders would be needed. Experience also showed that the former NGO leaders would hardly be able to manage a bank, which is

¹² In 2007, Nair and Von Pischke made the same point in looking back at the upgrading strategy of the past ten years.

after all a much more complex enterprise than an NGO. The international donors who in most cases have supported the conversion or the creation of the new institution financially might be other candidates. But as it turned out in practice, they were neither able nor willing to take over the full responsibility for making the new bank become successful in both financial and developmental terms. Purely commercial investors were also not deemed suitable as owners of MFIs simply because it was feared that they would only focus on profitability and neglect the social and developmental role and mission of microfinance banks.

Being a strategic shareholder—or simply an owner—of an MFI requires more than merely putting up equity. A qualified owner must feel responsible for the institution and its success in two dimensions—both a financial and a developmental dimension, and act accordingly. The new MFI should of course be commercially successful because otherwise it cannot become a stable institution. However, its task is ultimately to contribute to the country's economic development and to serve the less prosperous members of its society. Therefore, asking who is best suited to exercising ownership and control amounts to asking who would use his ownership rights to take decisions that fairly balance short- and medium-term financial goals and long-term development aims.

At the time when creating new MFIs had become the rule of the game, there was no good answer to the question of who could be competent, patient and socially responsible owners of commercially oriented MFIs. Interestingly, the two organizations mentioned above, IPC and ACCION, that had been the most fervent advocates of the commercial-cum-institution building approach for years and that had also been the most successful players in creating MFIs that are both financially viable and developmentally oriented, also were first aware of the problem that it is not enough to build up such institutions. For their continued stability and growth, they needed dedicated and competent strategic owners. And they

finally assumed this role themselves. ACCION created a number of institutional and equity-supported links to the large number of MFIs in whose creation it had played a role, and IPC founded an equity participation company called ProCredit Holding-AG. The latter by now holds the major part of the equity of 22 small business banks in 22 countries and acts as the central coordinator of this group of banks.¹³

RECENT DEVELOPMENTS AND EXCESSES OF COMMERCIAL ORIENTATION

1. The apparent victory of the commercial approach as the starting point

The time between the late 1990s and the middle of the last decade were the golden years of microfinance. What had started as a domain of well-intentioned but hardly competent amateurs became more and more a domain of professionals. In parallel, microfinance also became more and more effective in financial and developmental terms. Many new MFIs were set up and managed in the spirit of the commercial approach, and a considerable number of them became quite successful in purely financial terms and at the same time started to have a sizable impact. The institutions and the networks of MFIs set up by ACCION and IPC/ProCredit served as models, and their “best practice” was copied by several imitators. When Yunus and his Grameen Bank received the Noble Peace Prize in 2006, the “new world of microfinance”—to quote from the title of an influential book edited by ACCION¹⁴—seemed to show that the commercial approach had scored an all-out victory in the battle of finding

¹³ Information about ACCION, IPC and ProCredit Holding and the networks of microfinance banks affiliated with ACCION and ProCredit Holding can be found on their respective homepages. ProCredit now no longer calls the banks in its network microfinance banks but rather small-business banks.

¹⁴ See Otero and Rhyne (1994).

the best solution for an important problem in social and economic development.

It was part of the apparent success of commercial microfinance that commercially oriented investors and their advisors also started to be interested in microfinance as a new and “interesting asset class.”¹⁵ This interest was welcome because the loan portfolios of the new MFIs were growing fast at that time. Since most new MFIs are regulated banks, a growing portfolio requires a growing equity base. Lack of equity had become a constraint on growth and potential new investors might have offered a solution to this problem—as long as they only provided equity and did not try to upset the delicate balance between profit and development-orientation that the best MFIs had established for themselves.

Apparent victory can lay the seeds of defeat. Not only those who had for many years worked in microfinance for the purpose of mitigating development problems noticed that commercial microfinance can be profitable. New players started to invade the field, and they seemed to have widely different intentions from those of the traditional players. Who were the new players, and what did they do?

2. The dual face of commercial microfinance

The term “commercialization” has more than one meaning. Until now, I have only used it in the sense of doing microfinance with a keen interest in covering the full costs of running an MFI, and even making a moderate profit in order to attract new funds. These could constitute equity or loans, and thus eliminate the former dependency on subsidies and development-aid funds.

¹⁵ See DB-Research (2007).

A second meaning of the term refers to the (possible) fact that purely commercial agents such as private commercial banks or other purely profit-oriented investors engage in business operations with poor people and small and very small enterprises, and that they do it in a way in line with their one-sided objectives. Since the middle of the last decade, commercialization in both senses of the term is taking place. The indisputable success of commercial microfinance in the first sense of the term “commercial” laid the foundation for commercialization in the second sense of the term, because it demonstrated to purely commercial players that the microfinance market can be a profitable market.

There had previously been some episodes of commercial actors invading a country’s microfinance market and operating there in ways that not only did not solve poor people’s problem of access to finance on reasonable terms, but instead created problems of over-indebtedness. But these were rare events and their negative effects were soon overcome. However, since the middle of the last decade, this new kind of commercialization has become a widespread phenomenon. So-called “microfinance” in Mexico is a well-known example. As the American business magazine *Business Week* reported several times in recent years (one of which under the title “the ugly side of micro-lending”),¹⁶ some large international banks have recently engaged in microfinance in Mexico. Unfortunately, it is necessary to add, elsewhere as well. Although they call their lending operations “microfinance,” this business has little to do with financing small and very small enterprises. Instead, it is simple consumer lending. In general, some scepticism is justified as to whether it is ethically defensible to finance consumption on the part of poor people, all the more so when such financing is provided under a misleading label. When the supply of consumer loans is targeted at poor people it constitutes irresponsible

¹⁶ See *Business Week* (2007). The article, which is available on the Internet, appeared on pp. 38–46 of the Dec. 24, 2007 U.S. edition of *Business Week*.

lending if, as reported by *Business Week*, it occurs with usurious interest rates. The gradual transformation of microfinance from microenterprise financing to consumer lending has started to tarnish the reputation of microfinance, and it is questionable from an ethical standpoint.

3. The Compartamos IPO of 2007

Unfortunately, the invasion by some commercial banks into the domain of microfinance is not the only recent development that casts a shadow over microfinance and raises ethical concerns. There is also the growing tendency of some genuine MFIs to adopt what I call “excessive commercialization.”

By issuing shares to the public and having their shares listed on a stock exchange to allow trading, an MFI tries to attract private, profit-oriented investors. A successful initial public offering (IPO)—to use financial terminology—of an MFI indicates that microfinance has reached a high degree of maturity since it requires that the MFI and the investment bankers supporting it should be able to convince new investors that their investment will pay off. As investors should not be misled, an IPO also implies a commitment by the MFI that it will ensure that these shareholders will receive the returns they were led to expect.

Over the past few years, five MFIs have undertaken IPOs—three of them located in Asia, one in Africa and one in Mexico.¹⁷ I shall first discuss the IPO of the Mexican MFI Compartamos, a case that serves to highlight the ethical dimension of excessive commercialization.

¹⁷ Four of these cases are compared and analysed in Lieberman et al. (2007); the Indian case occurred later.

In early 2007, 30% of the existing ordinary shares of Compartamos, a former NGO which had been converted into a joint stock corporation in 2000, were sold to American and Mexican private and institutional investors and the shares were listed on the Mexico City Stock Exchange. Since no new shares were created in the course of this IPO, the MFI itself did not receive any new funds. Only those who had invested earlier were given the opportunity to sell out at a profit.

By issuing shares to the public and having their shares listed on a stock exchange to allow trading, an MFI tries to attract private, profit-oriented investors

The IPO was extremely successful in financial terms. The issue price of Compartamos shares was 13 times higher than their book value,¹⁸ which corresponds to an extremely high price-earnings ratio.¹⁹ Assessed at the offering price, Compartamos was worth about US\$1.5 billion, although at that time it was still a rather small institution.²⁰ Despite the high issue price, the issue was oversubscribed by a factor of 13. After the issue, the price rose once again, by about 50%.

¹⁸ All the figures given here are taken from the careful assessment of the Compartamos IPO by Richard Rosenberg, a CGAP staff member; cf. Rosenberg (2007). The equally extensive documentation of the IPO published by ACCION (2007) arrives at very different conclusions from those of Rosenberg, but provides no reason to doubt Rosenberg's figures.

¹⁹ The price-earnings ratio of the Compartamos shares at the time of the IPO was close to 25. Generally, price-to-book ratios of listed banks are in the range of 1 to 4, and their price-earnings ratios are between 10 and 20.

²⁰ At the end of the year that preceded the IPO, the credit portfolio of Compartamos was only slightly more than half as large as that of the Grameen Bank and only one-eighth the size of that of the ProCredit group. However, the Compartamos' loan portfolio grew faster than those of the other two institutions.

Among those who sold shares in the course of the IPO were ACCION and the development finance institution IFC, a subsidiary of the World Bank, as well as several private shareholders drawn from among the founders and managers of Compartamos. They had all bought their shares at their nominal value in 2000, when Compartamos was converted from an NGO into a corporation, and their investment turned out to be very lucrative. Over a period of seven years, between 2000 to, and including, 2006, the value of their investment had doubled each year.

I think that the financial aspects of this IPO should be a cause of concern. However, this should not be based on the mere fact that shares in an MFI were sold to a broad range of investors or that the IPO was extremely profitable for the investors. Both features of the IPO have the positive effect of increasing the reputation of microfinance “as an investment opportunity,” making it easier for other MFIs to access the capital market and use it as a source of much-needed equity capital.

There is cause for concern, however, over the reason why Compartamos shares became so valuable. In this case, it was the extremely high profits earned over the time span since the conversion from an NGO into a corporation. The high issue price can only be explained by the expectation of the purchasers of the shares that this stunning level of profitability would be maintained over the coming years and the implicit promise of the initial owners and managers of Compartamos to maintain this exorbitant level of profits would be kept.

The past profits of Compartamos were the result neither of low-operating nor of low-funding costs. Rather, it was its pricing policy which consisted of charging an average interest rate of close to 100% on its loans. There had been an outburst of inflation in Mexico in the late 1990s. When inflation shot up to about 100% Compartamos did what every good MFI is supposed to do. It raised the interest rates on its loans accordingly so that

the inflation-adjusted interest rates remained positive. However, very soon the inflation rate in Mexico fell back to its normal level. Nevertheless, Compartamos maintained its high interest rates, which suggests that its interest-rate policy may have been chosen with an eye to the planned IPO.

Real interest rates of almost 100% would constitute a political and ethical problem at any financial institution. They are all the more problematic at an institution which presents itself as a development-oriented MFI, as Compartamos has done until now. In my view, as well as that of many other observers, the excessive profits are the result of plain and simple exploitation of customers.²¹ This leads to the conclusion that at least until 2007 the commercial orientation of Compartamos was simply excessive and incompatible with the ethical mandate of microfinance—constituting a major ethical problem.

Was there reason to expect that the exploitative pricing policy of Compartamos would change after the IPO and become more consistent with what constitutes best practice among commercially oriented but also ethically motivated microfinance institutions? This was unlikely from the start because roughly half the shares were sold to hedge funds in the course of the IPO.²² Hedge funds are not the kind of shareholders likely to show a strong commitment to social and development-related aims. Transferring power to them by issuing ordinary shares with full voting rights amounted to definitively losing power and renouncing the original developmental aspirations.

²¹ A simple calculation presented in Schmidt (2010) shows that the high value of Compartamos at the time of its IPO was essentially a reflection of the wealth transfer achieved by keeping interest rates high after the inflation spike.

²² This information is provided in ACCION (2007, 10) and confirmed in Lieberman et al. (2007, 32).

The Compartamos IPO led to a wave of very critical comments from within the microfinance community. One of the harshest comments came from Muhammad Yunus. As he argued, microfinance had been started to combat loan sharks and not to create new ones. One might be inclined to reject Yunus's criticism as inappropriate since he had never accepted the wholly commercial approach to microfinance. But he was not alone. Others like Rosenberg (2007), who had always been an advocate of the commercial approach, were equally appalled by the Compartamos IPO and the example it seemed to set for commercial microfinance, as well as its damage to the image of microfinance in general.

4. The IPO of SKS in 2010

Interestingly, though, the general public did not really become aware of the Compartamos IPO and its questionable aspects. It may simply not have had enough appeal for the media. However, this attitude did not prevail after the second major IPO by an MFI in India in 2010.

India was a latecomer to microfinance, despite its proximity to Bangladesh, the home of Grameen Bank, ASA and BRAC, three of the world's largest and most well-known MFIs. One reason for this was that government-owned banks and government-related programs had dominated the microfinance scene in India for many years. Therefore private MFIs, and especially those with a commercial orientation, had a very slow start. But once it began, microcredit almost exploded in India. Between 2006 and 2010, the number of borrower-clients of commercially oriented MFIs grew from 8 million to 28 million, and the volume of outstanding loans grew by a factor of 8. A year previously, India, and especially the State of Andhra Pradesh in South India, had become the home to some of the world's fastest-growing and thus ultimately also the largest MFIs. Among them was SKS Microfinance.

Two events took place in this part of India in 2010 that led to a situation termed by observers a “major crisis” (Wallstreet Journal) and even “the death of a microfinance” (Global Post, India). One of these was the IPO by SKS, and the other was a series of about 80 suicides that were linked to repayment problems of microfinance borrowers and the pressure that seems to have been applied by MFIs’ debt-collection agents.

SKS is a large strictly commercially oriented MFI headquartered in Hyderabad in the State of Andhra Pradesh. It operates in that state and several neighboring states of South India. It was founded as an NGO in 1997 by Vikram Akula, an entrepreneur who had worked as a consultant in the United States. In 2003, SKS was transformed into a Private Limited Company—that is, a for-profit institution, and converted into a Public Limited Company in 2009. Over the years, the ownership of SKS has changed dramatically. It was mainly owned by its clients until 2003. Then before and after the IPO most of the shares were held by American private-equity companies. Measured by the size of its loan portfolio at the time of the IPO, SKS was about twice as large as Compartamos. Shortly before the IPO, Akula and other top managers sold their shares, cashing in substantial profits.

On 28 August 2010, 23% of the SKS shares were issued to the general public, including more institutional investors. In financial terms, the IPO was at least as successful as that of Compartamos. On the basis of the issue price, SKS had a total market value of around US\$1.5 billion, almost exactly the same as Compartamos at the time of its IPO, and the issue was also 13 times oversubscribed.²³

Like Compartamos, SKS was, and still is, an institution that only grants loans and does not take deposits. Equity financing comes mainly from

²³ For details and especially the figures used in this section, see Chen et al., 2010.

institutional investors of the kind mentioned above, and the bulk of SKS's funding is in the form of debt from Indian banks. There is a legal requirement in India that banks must provide a certain fraction of their loans to low-income borrowers. However, they can meet this requirement if they lend money to microfinance institutions; and that is what most Indian banks do. Therefore, for a long time funding was not a problem for the major MFIs in India despite their enormous growth rates. In the case of SKS, the average annual growth rate of the portfolio was more than 160% during the five years preceding the IPO.

The high issue price of the SKS shares and the high price-earnings ratio of over 40 are hard to explain. Because of heavy competition from other MFIs, and possibly also because SKS management wanted to avoid incurring the criticism that Compartamos had attracted three years earlier, the interest rates charged by SKS were lower and within the normal range obtaining in good MFIs. Thus the claim that it overcharged clients, the main thrust of the criticism against Compartamos, does not apply to SKS. Its return on equity and return on assets were also not particularly high. Given its moderate profits, it seems that those who bought the shares at a very high price must have been convinced that SKS would be able to maintain the enormous growth rates of client numbers, loan volumes and staff it had achieved in the five years before the IPO. Another possibility is that they simply overvalued the new shares offered to them, as Chen et al. (2010) also believe.

5. The Indian microfinance crisis

As I have said, recent growth rates of microcredit in South India were enormous, and a number of fast-growing MFIs competed fiercely for market share. Largely similar to the subprime crisis in the United States, this situation incited negligence in the credit assessments undertaken by

loan officers and a policy of unrestricted credit expansion on the part of MFI management. As a consequence, poor borrowers felt encouraged to take out loans from several MFIs. Multiple borrowing was widespread, leading to clients' inability to repay their loans. With surging repayment problems, debt-collection practices became increasingly ruthless.

As has been extensively reported in the press worldwide, a growing number of borrowers were unable to stand the pressure exerted on them by debt collectors working for SKS and other MFIs, and 80 people committed suicide, allegedly on account of this pressure. Of course, it is never possible to know the true reason for a suicide in any given case, and even more difficult to understand what it means in a culture like that of South India. But it seems plausible to assume that these sad cases were related to over-lending and over-borrowing. For the affected families it was a tragedy, and for microfinance, it was certainly also an ethical disaster.

It was also a disaster from a political and commercial perspective for Indian MFIs. Politicians in Andhra Pradesh and some other states reacted fast by recommending that MFI clients stop repaying their loans. They also introduced legal means to stop the questionable operations of debt collectors and those responsible for granting new MFI loans. Repayment rates fell drastically, as did the flow of new loans. In simple words, the microloan market came to a stop. Also the stock price of SKS dropped to about one third of the issue price only one year earlier.

Looking at events in the heartland of Indian microfinance, one might be inclined to think that the crisis in Andhra Pradesh was also an all-India microfinance crisis and might even signal the beginning of a similar crisis in other countries. Certainly, practitioners and observers were now alerted to the danger of over-lending and multiple lending by MFIs, as well as of MFI loans that were merely consumer loans as opposed to micro-business

loans that would help people generate more income. However, the Indian crisis has so far not developed into a general microfinance crisis. It is restricted to a few national microfinance markets or regions, and even there it mainly affects the operations of only a few MFIs.

However, even though it is premature to diagnose a general microfinance crisis, as some commentators do, the damage is done. Apart from the fact that it means great hardship for the people directly affected, the general effect of the events in South India is that microfinance has lost almost all its former ethical and political appeal. As Chuck Waterfield, an expert in microfinance and an advocate of the commercial approach puts it in a blog²⁴ maintained by the well-known microfinance support organization CGAP, “we run the risk of the world seeing no difference between microfinance and the moneylenders we set out to displace.”

There can hardly be any question that many of the unethical practices that have so severely tarnished the former reputation of microfinance can be traced back to “excessive commercialization.” It is not surprising that the two MFIs that have undertaken IPOs which were spectacularly successful in purely financial terms and meant enormous gains for those who had set them up are at the center of the crisis. Milford Bateman, a British expert, paraphrases Shakespeare by writing “something is rotten in the state of microfinance” and blames “the international-development community’s preferred model of microfinance, the commercial model” for the current situation.²⁵ As he sees it, “hidden behind the focus upon extending outreach, was the awkward fact that a MFI’s senior managers were quietly turning the institutional gains into private gains taken out in

²⁴ This blog can be found at <http://microfinance.cgap.org/tag/chuck-waterfield/>. The entry dates from Oct. 18, 2010.

²⁵ This statement, dated from 11 Feb. 2011, is also found at <http://microfinance.cgap.org/author/Milford-Bateman/>.

the form of spectacular salaries, bonuses, dividends and, eventually, windfall profits arising from an IPO.”

There can hardly be any question that many of the unethical practices that have so severely tarnished the former reputation of microfinance can be traced back to “excessive commercialization”

Bateman’s remark was precisely aimed at those two MFIs at whose IPOs I have taken a closer look. Their common features are the heavy involvement of private equity companies and hedge funds as investors and the huge gains of those inside owners who cashed in during the course of the IPO. This raises the question of whether the involvement of this type of investor and the enrichment of the founders and top managers are related in some way. This seems to be the case. Or more generally, is an IPO necessarily the end of microfinance as we had come to know it, and of all of its moral aspirations, or is it only a problem of how an IPO is implemented? And can traditional commercial microfinance avoid running into the problems of multiple lending, over-borrowing and a loss of focus on development? I shall address these questions in the concluding section.

CONCLUSION AND OUTLOOK

1. Are the negative effects of the capital market inevitable?

It is my impression that in both cases of MFI IPOs, people who may once have created MFIs with the noble intention of making a contribution to development, put the MFIs they had created into the hands of “the capital market.” Apparently they thereby lost control over the MFIs and became unable or unwilling to maintain the developmental orientation that they

may once have had. More precisely, they put their MFIs into the hands of hedge funds and private equity companies—that is, of investors who presumably are only interested in profit and are indifferent to developmental and social effects and aspirations. Is what happened to these MFIs an unavoidable consequence of turning to the capital market? And is undertaking an IPO necessarily the end of ethically motivated microfinance for the MFIs in question, thus precluding the option of using the stock market to attract more equity and thereby to increase the possible positive effects that microfinance can have?

Using the example of the IPO of an MFI that had been contemplated but because of the general financial crisis has so far not been executed, it is possible, I hope, at least to sketch an answer. The case I have in mind is that of ProCredit Holding-AG, or for short PCH. PCH is the German holding company of a group of 22 small business banks in 22 countries already mentioned above. I am familiar with this case because until not long ago I was a member of PCH's supervisory board.

The holding company and the MFIs under its umbrella have in the past consistently followed the commercial approach, and as a group they have been moderately profitable for a long time. They are also keenly aware of their development policy mandate and try to adhere to it as much as possible. PCH can therefore be regarded as successful in both regards. Since the middle of the past decade, PCH had considered undertaking an IPO in order to raise new equity, which it urgently needed to support the lending business of its fast-growing affiliated small business banks. When the financial crisis hit in 2007, preparations were quite advanced. However, the crisis has completely stopped all IPO activity in Western Europe and America. Therefore the plans had to be put on hold, at least for the time being.²⁶

²⁶ The information concerning the plans of PCH had, for understandable reasons, been kept largely secret for a long time. However, attentive readers can now find it in remarks on the homepage of PCH.

For PCH, the financial success of the Compartamos IPO had ambiguous implications. On the one hand it was considered encouraging because it showed that the capital market is receptive to MFI shares. On the other hand, the managers and owners of PCH feared that after the controversy surrounding the Compartamos IPO, socially and developmentally oriented investors, with whom PCH had planned to place a part of its shares, would turn away from microfinance entirely as they might no longer trust commercially oriented MFIs to maintain their commitment to development aims once they had submitted themselves to the “dictates of the capital markets.” Moreover, the managers and current owners may have also feared that their organization and possibly they themselves as people could change in the way that appeared to have happened at Compartamos—and also at SKS—if they took PCH public, or even if they only seriously considered doing so.

Could PCH do something to prevent this from happening? There is a positive answer to this question. However, this answer requires a thorough understanding of the problems that have to be solved. What has happened at Compartamos—and possibly also at SKS—could have been expected in principle, because at each point in time the exact thing happened that could have been expected, given the incentives for the participants involved and the options available to them at all points in time.

But that this mechanism is effective is also predictable in principle *and as a principle*: the incentives and opportunities that will be encountered at a later point in time can be anticipated. But they can also be structured in advance. One can try to create binding commitments *in advance* that will take effect *later* if one knows *in advance* that one does not wish to act in accordance with the incentives and opportunities that will exist *later*. However, this is not an easy matter, and it has economic costs.

Thomas Schelling analyzed the principle of self-commitment years ago in a masterly way.²⁷ It can be applied directly to the case of the IPO of a commercially oriented MFI like PCH that also has a social and developmental objective and wants to retain it after an IPO. *Before* the IPO, the existing owners can create a binding commitment regarding the orientation that their MFI will follow *after* the IPO by signing a shareholder agreement as a contract between each other. For example, they can agree that the level of profit earned by their MFI may not exceed a specific limit. Having such an agreement in place would limit the incentive to *later* shift to providing consumer loans or similar products of limited social value in the face of the pressure of the capital market. Of course, it is necessary to ensure that this commitment cannot easily be revised. Therefore, the current owners of the MFI must find a way of giving their agreement a binding or constitutional status.

But wouldn't the new distribution of voting rights among the owners automatically change once the IPO had taken place so that the contract would become ineffective? The answer depends on whether new shareholders would receive voting rights or not. Non-voting shares exist in almost every legal system. In order to make their commitment irreversible, the existing owners of PCH, who wanted to preserve the orientation of their MFI, planned to agree among themselves to issue only non-voting shares in the envisioned IPO, thus leaving the existing distribution of decision rights intact and ensuring that the existing development orientation of PCH would remain in place. This naturally comes at a price, and one which may even be very high, because non-voting shares cannot be issued at the same price as voting shares. It

²⁷ For the basic argument, see Schelling (1960). Schelling received the Nobel Prize in Economics in 2005 primarily for this work. In a later book (Schelling 1984, 57), he explained his principle of pre-commitment using the example of Odysseus who wanted to hear the enchanting song of the Sirens, yet knowing that, once he had heard it, i.e. *later*, he would have only one wish—namely to go straight to them—and would die on the cliffs of their island.

might even be feared that non-voting shares could not be placed at all. The PCH owners were willing to take this risk. However, the good lesson of the Compartamos IPO which is relevant here is that the capital market seems to have a considerable appetite for MFI shares. It could thus be expected that the market would take up even non-voting shares in an MFI with a long-term self-imposed commitment to development goals. This is in essence what the present owners and managers of PCH had planned to do before the crisis derailed their plans to issue shares to the general public. With such a concept, PCH can still today try, and indeed hope, to maintain its identity and its development orientation which is important to the owners, while at the same time taking advantage of the capital market.

In concluding, I venture to put forth the optimistic proposition that as long as an MFI does not approach the dangers of the capital market in a blind and naïve manner, the commercial orientation need not lead to a situation in which it will be induced to maximize profit at the cost of all ethical and development aims.

2. The future role of microfinance

In mid-2010, a number of new research studies were published which claimed that the effectiveness of microfinance as a means of overcoming poverty had been greatly overestimated in the past. This assessment is most probably correct. However, it is by no means new. Among many others, Jonathan Morduch had made this point before and argued that microfinance—at least that of the commercially oriented kind, is a means of generating employment and stabilizing the lower-middle-income group of a developing country rather than an instrument to combat poverty (Morduch 2000). After all, the typical MFI client is the local baker in a small town and not his poor neighbor who might work in the bakery

from time to time. The local baker is a member of the local lower middle class. He is poor by Western standards but not by local standards. Really poor people do not need loans, which inevitably put a debt burden on their shoulders, but rather other services such as access to clean water and health care for which they would have to pay little or even nothing.

But why should it be important to improve the baker's access to credit through better financial services? There are three reasons. One is that the baker as a borrower offers certain prospects of creating income and employment for himself and his family and also for others. Thus at least an element of the old "trickle-down" concept needs to be resuscitated in thinking about microfinance or—as it should rather be called in order to avoid misleading expectations—small-business finance. There is sufficient evidence that small-business finance can have positive effects on income and employment.

Second, the recent events in India and some other places have taught the bitter lesson that really poor MFI clients can hardly be prevented from also taking out loans from other MFIs and from private moneylenders. Therefore, it is almost impossible to avoid multiple borrowing and over-indebtedness if a development-finance institution focuses on granting credit to almost any poor person without regard for how the borrowed funds will be employed. In the case of lending to the baker, there is at least a certain possibility of monitoring the use of funds and avoiding over-lending and multiple borrowing.

The third argument for lending to clients who belong to the lower local middle class rather than to really poor people is that small business owners might be more interested in demanding and also supporting democracy, a well-functioning legal system and an efficient bureaucracy and that they might be more inclined and better able to voice their interests. Thus successful lending to small business owners can have the

positive effect of helping to establish and stabilize well-organized societies and thereby indirectly also benefitting other groups of the population.

What does all of this imply for the future of microfinance? Many or even most of the existing MFIs will have to turn into small business banks. Of course, these banks must be stable and profitable institutions, and this requires that they continue operating in the spirit of the commercial approach. The crucial ethical challenge for them consists of finding ways of committing themselves to supporting those parts of a local society and economy that so far have insufficient access to finance. Finance for the really poor may not have much of a future, at least as far as the existing larger and commercially oriented MFIs are concerned. The idea of having MFIs that mainly cater to the really poor people may in the end prove to be an illusion. And for the really poor, new solutions need to be devised by the next generation of ethically motivated and innovative experts and social entrepreneurs.

BIBLIOGRAPHY

- ACCION. 2007. The Banco Compartamos Initial Public Offering. *ACCION InSight* 23.
- Bateman, M. 2011. "Over-Indebtedness and Market Forces." CGAP Microfinance Blog, February 11.
- Chen, G., S. Rasmussen, X. Reille and D. Rozas. 2010. "Indian Microfinance Goes Public: The SKS Initial Public Offering." CGAP Focus Note 65.
- DB-Research. 2007. *Microfinance: An Emerging Investment Opportunity*. Frankfurt: Deutsche Bank.
- Easterly, W. 2001. *The Elusive Quest for Growth: Economists' Adventures and Misadventures in the Tropics*. Cambridge, MA: MIT Press.
- Hulme, D., and P. Mosley. 1996. *Finance against Poverty*. London, New York: Routledge.
- Lieberman, I., A. Anderson, Z. Grafe, B. Campbell and D. Kopf. 2007. *Microfinance and Capital Markets: The Initial Listings/Private Offering of Four Leading Institutions*. Calmeadow and the Microfinance Equity Fund.
- Morduch, J. 1999. "The Microfinance Promise." *Journal of Economic Perspectives* 37: 1569–1614.
- Morduch, J. 2000. "The Microfinance Schism." *World Development* 28: 617–629.
- Nair, A., and J. D. Von Pischke. 2007. "Commercial Banks and Financial Access." In *Building Inclusive Financial Systems: A Framework for Financial Access*, edited by M. S. Barr et al., 89–116. Washington, DC: Brookings.
- Otero, M., and E. Rhyne (eds.). 1994. *The New World of Microfinance*. Bloomfield, CT: Kumarian Press.
- Rosenberg, R. 2007. "CGAP Reflections on the Compartamos Initial Public Offering: A Case Study on Microfinance Interest Rates and Profits." CGAP Focus Note 42.
- Schelling, T. C. 1960. *The Strategy of Conflict*. Cambridge, MA: Harvard University Press.
- Schelling, T. C. 1984. *Choice and Consequences*. Cambridge, MA: Harvard University Press.
- Schmidt, R. H. 2010. "Microfinance, Commercialization and Ethics." *Poverty and Public Policy* 2: 99–137.
- Schmidt, R. H., and C.-P. Zeitinger. 1996. "The Efficiency of Credit-Granting NGOs." *Savings and Development* 20: 353–385.
- Waterfield, C. 2010. "Has the Microfinance Market Come of Age?" CGAP Microfinance Blog, October 18.
- Woller, G., C. Dunford and W. Woodworth. 1999. "Where to Microfinance?" *International Journal of Economic Development* 1 (1).
- Yunus, M. 2006. "Poverty is a Threat to Peace, Nobel Peace Prize acceptance speech by M. Yunus, given on 10.12.2006," published as an Epilogue in: M. Yunus. 2007. *Creating a World Without Poverty*. New York: Public Affairs.

>> Once hailed as a highly effective way to combat poverty, microfinance has since become tainted by cases of fierce commercialization, high profit margins and even increased suicide rates among borrowers. So does microfinance work at all? This chapter makes the case for a commercial approach to microfinance, arguing that institutions need to be able to cover all their costs to be financially viable and to make a meaningful impact. But being commercial does not mean being profit-driven. With careful planning, it is possible to create microfinance institutions that are both ethical and self-sustaining. While it may not be a miracle cure for poverty, microfinance can still play a role in generating wealth in poorer nations.

REINHARD H. SCHMIDT

Goethe University, Frankfurt

BIOGRAPHIES

AUTHORS

John R. Boatright

John R. Boatright is the Raymond C. Baumhart, S.J., Professor of Business Ethics in the Graduate School of Business at Loyola University Chicago. He has served as the Executive Director of the Society for Business Ethics, and is a past president of the Society. He is the author of the books *Ethics and the Conduct of Business* and *Ethics in Finance*, and the editor of *Finance Ethics: Critical Issues in Theory and Practice*. He has contributed chapters to many books, and has published widely in major journals. He serves on the editorial boards of *Business Ethics Quarterly*, *Journal of Business Ethics*, and *Business and Society Review*. He received his Ph.D. in philosophy from the University of Chicago.

Joseph H. Carens

Joseph H. Carens is Professor of Political Science at the University of Toronto. He received his Ph.D. from Yale University. He has published three books: *Immigrants and the Right to Stay* (MIT Press 2010); *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness* (Oxford University Press 2000); and *Equality, Moral Incentives, and the Market: An Essay in Utopian Politico-Economic Theory* (University of Chicago Press 1981). He has also published two edited books and more than 70 journal articles or chapters in books. Carens' research focuses on questions about justice, equality, and freedom in democratic communities. He is particularly interested in the normative issues raised by the movement of people across state borders and by ethnic and cultural diversity in all its forms. He is currently completing a book that is tentatively titled *Who Belongs? The Ethics of Immigration*.

Thomas Clarke

Thomas Clarke is Professor of Management and Director of the Key University Research Centre for Corporate Governance at the University of Technology, Sydney. Formerly he was Professor of Management at the China Europe International Business School (CEIBS) in Shanghai, and was a member of the UK Royal Society of Art's *Tomorrow's Company Inquiry* into the sources of sustainable business success; assisting with the development of the OECD Principles of Corporate Governance in Paris; and conducting a major ARC funded survey of *The Changing Roles of Boards and Directors* in Australia. Among his publications are: *Rethinking the Company*, Financial Times, 1994; *Theories of*

Corporate Governance, Routledge, 2004, 2012; *Corporate Governance and Globalisation*, Sage, 2006 (with Marie de la Rama); *European Corporate Governance*, Routledge, 2009 (with Jean-Francois Chanlat); *International Corporate Governance: A Comparative Approach*, Routledge Second Edition 2012; and *The Handbook of Corporate Governance*, Sage, 2012 (with Douglas Branson). He is the Corporate Governance and Sustainability section editor of the *Journal of Business Ethics* (Springer).

Richard T. De George

Richard T. De George is University Distinguished Professor of Philosophy and Co-Director of the International Center for Ethics in Business at the University of Kansas. He is the author of over 200 articles and the author or editor of twenty books, including *Business Ethics* (2010), now in its seventh edition and also available in Japanese, Russian, Serbian and Chinese; *The Ethics of Information Technology and Business* (2003); and *Competing With Integrity in International Business* (Oxford, 1993), also translated into Chinese. He has been the President of several academic organizations, including the American Philosophical Association, the Metaphysical Society of America, the Society for Business Ethics, and the International Society for Business, Economics, and Ethics. He has given invited lectures on six continents at a great many universities and keynote addresses to a variety of organizations. In November, 1996, he received an honorary doctorate from Nijenrode University for his work in business ethics.

R. Edward Freeman

Born in Columbus, Georgia, United States in 1951 and educated at Duke University and Washington University (St. Louis) in mathematics and philosophy, he has taught at The Wharton School at the University of Pennsylvania and The Carlson School at the University of Minnesota. Since 1987 he has been the Elis and Signe Olsson Professor at the Darden School, University of Virginia, where he was appointed University Professor in 2010. He has held honorary positions at Copenhagen Business School, George Washington University, University of Melbourne, and Universidad Pontificia Comillas, where he was awarded an honorary doctorate in economics in 2008. He is the author and editor of over 20 Volumes and 100 articles in stakeholder theory and business ethics. He is best known for his 1984 book *Strategic Management: A Stakeholder Approach*.

Mervyn Frost

Professor Mervyn Frost is Head of the Department of War Studies at King's College, London. A former Rhodes Scholar, he read Politics at Oxford University and held lectureships at the University of Cape Town and Rhodes University before being appointed to the Chair of Politics and Head of Department at the University of Natal in

Durban. He has been President of the South African Political Studies Association and editor of its journal *Politikon*. He has served on boards of the Executive Committee of the International Studies Association (ISA) and was Chairman of the Association's International Ethics Section for several years. Specialized in the field of ethics in international relations, he is currently on the editing boards of several journals, including *International Political Sociology*; *Journal of International Political Theory*; and *South African Journal of International Affairs*. His latest book, *Global Ethics: Anarchy, Freedom and International Relations*, was published in 2009.

Geert Hofstede

Geert Hofstede (1928) is Emeritus Professor of Organizational Anthropology and International Management at Maastricht University in his native Netherlands. He holds a Masters degree in Mechanical Engineering from Delft Technical University (1953) and a cum laude doctorate in Social Psychology from the University of Groningen (1967). He has worked in Dutch as well as international business companies in roles varying from production worker to Director of Human Resources. From 1965 to 1971 he founded and managed the Personnel Research department of IBM Europe; he was involved in research in nearly all countries of Western Europe and the Middle East. He subsequently became a faculty member and researcher at IMD, Switzerland; INSEAD, France; EIASM, Belgium and IIASA, Austria. Through the publication in the United States of his scholarly book *Culture's Consequences* (1980, new edition 2001), he became a founder of comparative intercultural research. His books have so far appeared in 23 languages. He is a Fellow of the Academy of Management in the United States, an Honorary Fellow of the International Association for Cross-Cultural Psychology, and a Doctor Honoris Causa of seven European universities.

Bernardo Kliksberg

Bernardo Kliksberg is a special advisor to the UN, UNICEF, UNESCO, WHO and other international organizations. A pioneer in new disciplines such as development ethics and corporate social responsibility (CSR), he is considered to be the father of social management. Among other distinctions, he has been awarded the Order of Civil Merit by King Juan Carlos I and has been appointed an Illustrious Citizen of Buenos Aires and Grand Master by the University of Buenos Aires. President for CSR of the Ibero-American Network of Universities, he has been guest professor at different academic institutions, including Harvard, New York University, Columbia University, La Sorbonne, Georgetown University, Oslo University, the University of Southern California and Birmingham University. He is the author of 50 books and hundreds of articles which have been widely translated. Among his most recent publications is *The People First*, co-authored with Nobel Prize Laureate Amartya Sen (14th edition, 2011), and due to appear shortly in Chinese.

Peter Koslowski

Peter Koslowski, a German national, has been Professor of Philosophy, especially Philosophy of Management and History of Philosophy, at the Vrije Universiteit (Free University) Amsterdam, Netherlands, since 2004. He was the Founding Director of the Hanover Institute of Philosophical Research, Hanover, Germany, from 1988-2001, a Visiting Scholar-in-Residence with the Liberty Fund, Indianapolis, Indiana, USA, in 2002-2003, and a Fellow of the International Centre for Economic Research, Turin, Italy, in 2003-2004. His books on economic and business ethics include *Ethics of Capitalism* (7th German edition 2010, Spanish, English, Japanese, Chinese, Russian and Korean translations), *Principles of Ethical Economy* (German edition 1988, English, Japanese, Chinese and Russian translations) and *The Ethics of Banking: Conclusions from the Financial Crisis* (German edition 2009, English translation 2011). He has been Chairman since 1997 of the Working Group on Economic Ethics and Economic Culture, German Philosophical Association; and Chairman since 2002 of the Working Group "Compliance and Ethics in Financial Institutions in the German Business Ethics Network." He holds two Honorary Doctorate Degrees.

Hans Küng

Hans Küng (1928) is the founding President of the Foundation for a Global Ethic. A leading Roman Catholic theologian, he studied at the Pontifical Gregorian University in Rome and was ordained in 1954. He served as an expert theological advisor to the Second Vatican Council, alongside Joseph Ratzinger (now Pope Benedict XVI). In 1960, he was appointed Professor of Philosophy at the University of Tübingen, where he continues to serve as emeritus professor today. In the 1990s, Professor Küng initiated the project to devise a global ethic, which led to the publication of *Towards a Global Ethic: An Initial Declaration*. In 1993, the declaration was signed at the Parliament of the World's Religions by spiritual leaders from around the globe. A prolific author, his most recent publications include *Was ich glaube* [What I Believe] on his relationship with nature, and *Der Anfang aller Dinge* [The Beginning of All Things], an exploration of science and religion.

Andy Miah

Professor Andy Miah, PhD (@andymiah), is Director of the Creative Futures Research Centre (creativefutur.es) and Chair of Ethics and Emerging Technologies in the Faculty of Business & Creative Industries at the University of the West of Scotland. He is also Global Director for the Centre for Policy and Emerging Technologies, Fellow of the Institute for Ethics and Emerging Technologies, United States, and Fellow at FACT, the Foundation for Art and Creative Technology, United Kingdom. He is author of *Genetically Modified Athletes* (2004 Routledge), co-author of *The Medicalization of Cyberspace* (2008, Routledge) and editor of *Human Futures: Art in an Age of Uncertainty* (2008, Liverpool University Press). He has published over 150 academic articles in refereed

journals, books, magazines, and national media press on the subjects of cyberculture, medicine, technology, and sport. He regularly interviews for the media and has published in the *Washington Post*, the *Huffington Post* and a range of British broadsheet newspapers.

Carl Mitcham

Carl Mitcham is Professor of Liberal Arts and International Studies at the Colorado School of Mines and holds collaborative appointments at the Center for Science and Technology Policy Research, University of Colorado; Consortium for Science, Policy, and Outcomes, Arizona State University; Center for the Study of Interdisciplinarity, University of North Texas; the program in Filosofía, Ciencia y Valores at the Universidad del País Vasco, Donostia-San Sebastián; and the European Graduate School in Saas-Fee, Switzerland. His publications include *Thinking through Technology: The Path between Engineering and Philosophy* (1994) and (as editor-in-chief) the four-volume *Encyclopedia of Science, Technology, and Ethics* (2005). In 2010 he was awarded a doctorate *honoris causa*, Valencian International University, Valencia, Spain.

Mollie Painter-Morland

Mollie Painter-Morland, Ph.D., is an Associate Professor in the Department of Philosophy at DePaul University and serves as Associate Director of DePaul's Institute for Business and Professional Ethics. She is also Editor-in-Chief of the *Business and Professional Ethics Journal* and co-editor of the *Springer's Issues in Business Ethics* series. For many years, she was Director of the Centre for Business and Professional Ethics at the University of Pretoria in South Africa, and she remains involved with consulting projects and anti-corruption work there. Author of *Business Ethics as Practice: Ethics as the Everyday Business of Business*, she has co-edited several books including *Cutting-Edge Issues in Business Ethics: Continental Challenges to Theory and Practice; Leadership, Gender and Organization*, as well as a forthcoming textbook on *Business Ethics and Continental Philosophy*. She continues to publish peer-reviewed articles in many prominent journals, including *Business Ethics Quarterly* and *Business Ethics: A European Review*.

Reinhard H. Schmidt

Reinhard H. Schmidt has held the Wilhelm Merton Chair of International Banking and Finance at Goethe University in Frankfurt, Germany since 1991. He was previously a professor of Finance at the Universities of Göttingen and Trier and at Georgetown University in Washington, DC. He was also a visiting professor at Stanford, Paris and Milan universities. Currently, his main field of research is financial systems. This includes comparative research on the development of the financial systems of advanced countries as well as development finance, especially microfinance. He has published

22 books and 150 articles in academic books and journals. Over the years, Professor Schmidt has gained extensive experience as a consultant in development finance, working for German and international development organizations. He chaired the Supervisory Board of ProCredit Holding AG for its first five years. The latter is a major investor in small business and microenterprise banks located in many parts of the world.

Kristin Shrader-Frechette

Kristin Shrader-Frechette, Ph.D., is O'Neill Professor, Biological Sciences Department and Philosophy Department, University of Notre Dame, United States. Author of nearly 4,000 articles and 15 books, including *Taking Action, Saving Lives* (2007) and *What Will Work: Fighting Climate Change with Renewable Energy* (2011), Shrader-Frechette has held membership on many United States National Academy of Sciences boards/committees, the United States Environmental Protection Agency Science Advisory Board, and many UN committees. The first woman president of three international scholarly/scientific organizations (SPT, RAPA, ISEE), she has lectured throughout the world. Her research, funded by the National Science Foundation for 28 years, is translated into 13 languages. In 2004 Shrader-Frechette became the third American to win the World Technology Award in Ethics. In 2007, Catholic Digest named her one of 12 "Heroes for the United States and the World" for her global, pro-bono environmental-justice work with minority/poor communities. In 2011, Tufts University awarded her the Jean Mayer Global-Citizenship Award for pro-bono and scholarly work.

Robert A. Schultz

Robert A. Schultz received his Ph.D. in philosophy from Harvard University in 1971 with a dissertation in ethics under the direction of John Rawls. From 1968 to 1979 he was a member of the philosophy faculty at several universities. In 1980 he became Data Processing Manager at A-Mark Precious Metals, then in Beverly Hills, CA. From 1989 through 2007, he was Professor and Chair of Computer Information Systems at Woodbury University, Burbank, CA. He has numerous publications and presentations in the areas of database design, IT education, and the philosophy of technology. He has published two books on topics in IT and ethics. Since 2008 he has been Emeritus Professor at Woodbury. He currently teaches an online course in IT and Ethics for the Applied Information Management Program at the University of Oregon and is at work on a book for IGI-Global Press titled *Technology versus Ecology: Human Superiority and the Ongoing Conflict with Nature*.

Peter Singer

Peter Singer was born in Melbourne, Australia, in 1946, and educated at the University of Melbourne and the University of Oxford. He has taught at the University of Oxford, La Trobe University and Monash University. Since 1999 he has been Ira W. DeCamp

Professor of Bioethics in the University Center for Human Values at Princeton University. From 2005, he has also held the part-time position of Laureate Professor at the University of Melbourne, in the Centre for Applied Philosophy and Public Ethics. Peter Singer first became well-known internationally after the publication of *Animal Liberation* in 1975. He has written, co-authored, edited or co-edited more than 40 other books, including *Practical Ethics*; *The Expanding Circle*; *How Are We to Live?*, *Rethinking Life and Death*, *The Ethics of What We Eat* (with Jim Mason) and most recently, *The Life You Can Save*. His works have appeared in more than 20 languages. He is the author of the major article on Ethics in the current edition of the *Encyclopaedia Britannica*. In 2005 *Time* magazine named him one of the 100 most influential people in the world, and in 2008 readers of *Prospect* and *Foreign Policy* magazines voted him one of the 100 leading public intellectuals in the world.

Charles Taylor

Charles Taylor is emeritus professor of Philosophy at McGill University, Montreal. He has taught at McGill and Oxford, and been visiting professor at a number of other universities. His books include: *Sources of the Self* (1989), *Modern Social Imaginaries* (2004), *A Secular Age* (2007), and most recently *Dilemmas and Connections* (2011).

Mary Warnock

Mary Warnock was born in 1924, educated at Winchester and Oxford. She taught philosophy at Oxford until 1985, when she became Mistress of Girton College, Cambridge. She retired in 1992. She was Chairman of two major Government Committees of Inquiry, the first (1974–1978) on Special Educational Needs, the second (1982-1984) on Human Fertilization and Embryology. The reports of both were broadly accepted by Government, and incorporated in legislation. She has been an Independent Cross-Bench member of the House of Lords since 1985 She is the author of a number of books, including *Ethics since 1900* (1966); *Existentialism* (1970); *Imagination* (1976); *An Intelligent Person's Guide to Ethics* (1998); *Dishonest to God* (2010).